



**Information and Privacy
Commissioner/Ontario**

**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER MO-1717

Appeal MA-020173-2

Le Conseil scolaire public de district du Centre-Sud-Ouest



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NATURE OF THE APPEAL:

The requester made a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) to the Conseil scolaire public de district du Centre-Sud-Ouest (the Conseil) for a copy of “the accounting report showing details of all transactions to the account referenced as “CSDS 459” from January 1, 1998 to May 13, 2002.”

The Conseil issued a decision letter refusing the request on the basis that it was, in the Conseil’s opinion, frivolous and vexatious.

The requester subsequently revised his request as follows:

We request an accounting report, in Excel File Format, from the accounting system showing all of the transactions charged to this account, referenced as “CSDS 459”, from January 1, 1998 to date June 13, 2002. Furthermore, if this report is not the Detailed Job Cost report showing all disbursement charged against the Capital costs of Ecole LaSource, we request that the Detailed Job Cost report be provided for the Capital Costs of Ecole LaSource for the same period of time. This report is also requested in Excel File Format. Finally, we request that these reports be sent via e-mail to [the appellant].

The Conseil did not issue a decision in response to the amended request. The requester filed appeals with respect to this request (Appeals MA-020173-1, MA-020150-1). The Conseil subsequently confirmed that it accepted the amended request as the request for the purposes of Appeal MA-020173-1; the Conseil’s decision, however, remained the same.

In Order MO-1608, Adjudicator Sherry Liang found that the requests in Appeals MA-020150-1 and MA-020173-1 were not frivolous and vexatious. She ordered the Conseil to make access decisions in response to the requester’s requests, in accordance with the requirements of sections 19, 21 and 22 of the *Act*.

Subsequently, the Conseil issued a decision letter to the requester regarding the request in Appeal MA-020173-1, giving him a fee estimate of \$3,150 for records dated from January 1, 1998 to August 31, 1999 and \$210 for records dated from September 1, 1999 to June 13, 2002. The Conseil stated that it would process the request only upon full payment of this fee.

The requester, now the appellant in this appeal (Appeal MA-020173-2) appealed this fee estimate.

During mediation, the Conseil issued a new decision letter to the appellant, providing more information about the work upon which the Conseil based its fee estimate. The Conseil asked the appellant to pay a deposit equal to 50% of the estimate. The amount of the fee estimate remained the same.

Mediation did not resolve this appeal, and the file was transferred to adjudication. I sent a Notice of Inquiry to the Conseil, initially, outlining the facts and issues and inviting the Conseil to make written representations. The Conseil submitted representations in response to the

Notice. This office then sent a Notice of Inquiry to the appellant, together with a copy of the Conseil's representations. The appellant, in turn, provided representations.

As part of my inquiry, I asked the Conseil to confirm whether it intended to grant the appellant access to the records in full upon payment of any applicable fees. In its representations, the Conseil indicated that it intended to "provide full access to the report that would be produced on the detailed capital costs of école La Source," on the understanding that the report does not contain any personal information. If the report should happen to contain personal information, the Conseil would then claim any applicable exemptions from disclosure in the *Act*.

BRIEF CONCLUSION:

The Conseil's fee estimate should be upheld in part.

DISCUSSION:

SHOULD THE CONSEIL'S FEE ESTIMATE BE UPHELD?

General principles

The *Act* requires institutions to charge certain fees, prescribed by regulation, for processing access requests. Section 45(3) requires institutions to provide requesters with a "reasonable estimate" of any fee exceeding \$25, prior to giving access. This office may review the amount of a fee.

Where the fee is \$100 or more, the institution may choose to do all the work necessary to respond to the request at the outset. If so, it must issue a final access decision. Alternatively, the institution may choose *not* to do all the work necessary to respond to the request, initially. In that case, it must issue an interim access decision, together with a fee estimate, and may require the requester to pay a 50% deposit of the estimated fee (see section 7 of Regulation 823 made under the *Act*).

The purpose of the fee estimate, interim access decision and deposit process is to provide a requester with sufficient information to make an informed decision as to whether to pay the fee and pursue access, while protecting an institution from expending undue time and resources on processing a request that may ultimately be abandoned (Order MO-1699).

In all cases, the institution must include a detailed breakdown of the fee, and a detailed statement as to how the fee was calculated (Orders P-81, MO-1614).

Calculating the fee

Section 45(1) reads:

A head shall require the person who makes a request for access to a record to pay fees in the amounts prescribed by the regulations for,

- (a) the costs of every hour of manual search required to locate a record;
- (b) the costs of preparing the record for disclosure;
- (c) computer and other costs incurred in locating, retrieving, processing and copying a record;
- (d) shipping costs; and
- (e) any other costs incurred in responding to a request for access to a record.

Section 6 of Regulation 823 sets out the fees that an institution must charge for access to a record that does not contain the requester's personal information. These include:

- 3. For manually searching a record, \$7.50 for each 15 minutes spent by any person.
- 4. For preparing a record for disclosure, including severing a part of the record, \$7.50 for each 15 minutes spent by any person.

Representations

The Conseil makes detailed representations in support of its fee estimate of \$3,150 for records dated from January 1, 1998 to August 31, 1999 and \$210 for records dated from September 1, 1999 to June 13, 2002.

The Conseil submits that in preparing the fee estimate, it sought the advice of its Director of Finance, stating that she is "probably one of the most familiar with the records."

For the time-period from January 1, 1998 to August 31, 1999, the Conseil submits:

... the invoices are filed in batch sequence by date of payment. A detailed report is not available by vendor or by projects.

During that period, the system BAS was used as our general ledger system, which is no longer available to us. We only have at our disposal the records on paper and we would be required to do a manual search through all our files to extract the records containing the requested information.

...

... it would take quite some time to identify and recover the boxes which contained all the payments made by our Board over the years amidst the 203 boxes located in the two storage vaults.

Then, the manual actions that would be necessary to locate the requested records would be to search through all the boxes identified as containing payments for the period of January 1, 1998 to August 31, 1999 and to extract the records which contain the requested information; and finally, to gather all the information and to enter it in the computer to produce the detailed report.

...

Upon receipt of the request ... we went to the vault to confirm that the records were available in the different vault boxes by retrieving some samples of the records containing the information requested.

The Conseil submits that it would require approximately 105 hours to identify and extract the relevant information for this time-period and transpose it into a detailed report. The Conseil provides a detailed breakdown of this time in its representations, as follows:

... we have to locate the 25 boxes where are stored the requested information amidst the 203 boxes kept in the two storage vaults. Of those 25 boxes, three of them contain the payment possibility reports and the 22 other boxes contain the payments themselves. So the total of the chargeable estimated hours to perform these manual actions is 105 hours. ...

It is roughly estimated that it would take all together about one hour to locate the 25 boxes, 10 hours to go through the three boxes containing the payment possibility reports and to extract the information which will help to locate the records containing the requested information stored in the 22 other boxes. This second task would require a minutely detailed search through each vendor's name to ensure that we do not oversee any payments ... (three and half hours per box).

Then, it would approximately take 88 hours to identify the requested information located in the records kept in the 22 boxes and to transpose it into a detailed report of the capital costs of école La Source that would be prepared in Excel document to be submitted to the appellant (approximately four hours per box). Finally, it is estimated that it would approximately take six hours to cross reference the numbers provided in the detailed report to our audited financial records to ensure that all the expenditures were captured.

For the time-period from September 1, 1999 to June 13, 2002, the Conseil submits:

... the requested records are stored in the system SAP which is presently in use, so it would be easier to locate the detailed capital costs of école La Source. With

the help of that system, we would need to search for the requested information, extract it and generate a report with the costing centres used for the construction of école La Source; then we would need to convert it to Excel format and to cross reference the numbers provided in the detailed report to our audited financial records to ensure that all the expenditures were captured.

We would not charge for photocopying since the report would be sent to the appellant by e-mail ...

The Conseil submits that it would require approximately seven hours to search for and extract the relevant information for this time-period and generate a report, as follows:

... it is roughly estimated that it would take two hours to search for the requested information in the system SAP, to extract it and generate a report with the costing centres used for the construction of école La Source, and to convert it in Excel format and five hours to cross reference the numbers provided in the detailed report to our audited financial records to ensure that all the expenditures were captured.

Finally, the Conseil submits that its fee estimate will cover only “a portion of the effort and time taken to respond to this request as permitted by [the *Act*].”

The appellant submits:

My request is for the accounting system records as are recorded in the computer systems of the institution under their fiscal responsibilities to maintain accounting records. I have not asked for a review of paper documents and physically filed hard copy records of any kind.

The School Board received funding from the Ministry of Education to construct the school. I am seeking the accounting records which accounts for the money they received and spent. ...

Accounting expenditures must be segregated for fiscal and auditing purposes. In addition, the school board must have the necessary accounting entries recorded in order to create reports for the funding Ministry to review. I am seeking the accounting entries, on computer, in digital form, which are simply exported from the Computer accounting system on disk.

I have received digitally exported accounting records from them in the past under FOI and with only nominal fees. This request involves moments of time to extract the reports from the computer system, which can be sent on disk or by e-mail.

Findings

The Conseil has provided detailed representations outlining the steps it would need to take to respond to the appellant's request. Among its 112 hours of total estimated time, it includes 11 hours for cross-referencing certain information. In my view, the *Act* does not permit institutions to charge fees for cross-referencing or "proofing" information in this manner, notwithstanding that it may be a necessary exercise in the circumstances of a given request. I will therefore disallow this portion of the Conseil's fee estimate (Order M-1083).

I find, however, that the Conseil has provided sufficient evidence to support its remaining fee estimate. This estimate is based upon a number of actions, which the Conseil describes in detail, that form part of the Conseil's manual search for responsive information in this case. It also includes time for converting the information to Excel format (as per the appellant's request), which qualifies as preparing the records for disclosure.

The appellant clearly disagrees with the Conseil's fee estimate, especially insofar as it relates to manual searches through paper documents. The appellant believes that processing his request would "involve moments of time" and would not require searching through hard copies of records. He has not, however, provided enough evidence to refute the Conseil's assertion that such searches are necessary to respond to his request, and I do not see any basis for disallowing the Conseil's fee estimate in this regard.

Accordingly, based on the parties' representations, I am satisfied that the Conseil's fee estimate (excluding time for cross-referencing) is reasonable.

I also find that the Conseil has properly calculated its fee estimate. As noted above, section 6 of Regulation 823 stipulates a fee of \$7.50 for each 15 minutes spent by any person manually searching a record (i.e., \$30 per hour) and \$7.50 for each 15 minutes spent by any person preparing a record for disclosure (again, \$30 per hour). Excluding time for cross-referencing information, the Conseil's fee estimate is based on 101 hours of work. I will uphold the Conseil's fee estimate for 101 hours of manually searching for records and preparing them for disclosure at a rate of \$30 per hour, for a total amount of \$3,030.

Finally, I would note that the appellant appears to have changed the scope of his request in his representations. The appellant's revised request was specifically for "an accounting report ... showing all of the transactions charged to [account "CSDS 459"]" for the specified time-period, and, if not already included in this accounting report, for "the Detailed Job Cost report ... for the Capital Costs of Ecole LaSource for the same period of time." In his representations, however, the appellant states that his request is for "the accounting system records as are recorded in the computer systems of the institution."

The Conseil was responding to the appellant's revised request when it gave him the fee estimate at issue. Likewise, in this appeal I am reviewing this estimate vis-à-vis that revised request. As noted above, one of the purposes of fee estimates is to provide requesters with sufficient information to make an informed decision as to whether to proceed. If, based on the Conseil's

representations and this order, the appellant decides not to pay the fee and pursue access to the information described in his revised request, he has the option of making a new request that more accurately describes what he is seeking.

ORDER:

I uphold a fee estimate in the amount of \$3,030.

Original Signed By: _____
Shirley Senoff
Adjudicator

_____ November 28, 2003