



**OFFICE OF THE
INFORMATION and PRIVACY COMMISSIONER
for Prince Edward Island**

Public Body	Department of Transportation and Infrastructure
OIPC File No.	C/24/00075 (formerly FI-22-456)
Enactments	<i>Freedom of Information and Protection of Privacy Act – section 76</i> Regulations sections 8-12 relating to fees including Schedule 2
Decision #	D-25-007
Decision-Maker	Maria C. MacDonald, Deputy Commissioner
Date of Decision	July 3, 2025

SUMMARY

An Applicant asked for a review of the fees that the Department charged them to process their access request, and for a breakdown of how the Department used their time. The Deputy Commissioner found the fees were in accordance with the *FOIPP Act*, and that the Department gave the Applicant sufficient detail about the time they took to process the access request.

BACKGROUND

This review relates to a request for records of an employee who is an engineer, which mention the Applicant, their spouse, two properties identified by parcel numbers, and a road extension.

The original request was for records spanning a 31-year period. The Department gave the Applicant an estimate. The Applicant reduced the time span to a 16-year period and amended it to electronic searches of emails without the assistance of IT support. The Department issued a revised fee estimate of \$161.00, which the Applicant paid. After receiving the responsive records, the Applicant asked the Commissioner to review the fees, stating in part: “Given the narrow scope of this request, I would like to ask for a review to determine if the fees charged are in accordance with the *FOIPP Act*, including, where appropriate, a breakdown of how the time was utilized.”

The Applicant's request for review was beyond the 60-day limitation period, but Commissioner Denise N. Doiron extended the request for review period. Commissioner Doiron requested and exchanged submissions and delegated the matter to me to complete the review.

ISSUES

Issue 1: Is the fee in accordance with the *FOIPP Act*?

Issue 2: Should the Department give a breakdown about the time they took to process the access request?

ISSUE 1: IS THE FEE IN ACCORDANCE WITH THE *FOIPP ACT*?

The *FOIPP Act* and regulations set out the allowable fees for various potential costs to process an access request. The two that are relevant to this review are the cost of the media to copy the record (a USB flash drive) and the costs to locate and retrieve records.

Cost of a USB flash drive

The Applicant did not give us submissions about the Department charging \$11.00 for a USB flash drive. The maximum allowable rate a public body may charge an applicant for a USB flash drive (or other media) is the actual cost to the Public Body. I checked online and \$11.00 falls within a reasonable cost range.

I am satisfied that the Department's fee of \$11.00 for a USB flash drive is in accordance with the *FOIPP Act*.

Costs to locate and retrieve records

The cost to locate and retrieve records is based on the time involved. In their fee estimate, the Department estimated it would take eight hours but waived the first three hours. The Department charged the Applicant five hours. The engineer recorded how long it took them to locate and retrieve responsive records as 592 minutes, which is almost ten hours.

The engineer named in the access request was the best person to locate and retrieve responsive records because they have experience searching for records to respond to access requests, were familiar with the subject matter, and familiar with their own records. A public body cannot charge an applicant more than their cost. I am satisfied that the Department's cost for the engineer to conduct this search is more than the maximum allowable hourly cost to locate and retrieve records of \$15.00 per half hour. I have no concerns about the Department

charging the Applicant the maximum allowable hourly rate for the engineer to search through their records.

The Applicant did not respond to the Department's submissions about the time it took to search for responsive records.

I am satisfied that the Department's fee of \$150.00 is in accordance with the *FOIPP Act* to electronically search for records that name the Applicant, the Applicant's spouse, two different parcel numbers, or two variations of road names over a 16-year period.

Conclusion Regarding Fees

I am satisfied that the fees the Department charged the Applicant in this access request are in accordance with the *FOIPP Act*.

ISSUE 2: SHOULD THE DEPARTMENT GIVE A BREAKDOWN ABOUT THE TIME THEY TOOK TO PROCESS THE ACCESS REQUEST?

The Applicant asked for, where appropriate, a breakdown of the time they took to locate and retrieve responsive records. The *FOIPP Act* requires that a public body give an applicant a fee estimate if the public body is charging a fee. The Department prepared a fee estimate that included the information set out in the regulations. The *FOIPP Act* does not explicitly say that public bodies must give an applicant a further accounting of how they used their time. But it is implicit that a public body must track the time it took them to process an access request, for two reasons:

- If a public body overestimated the cost and an applicant paid more than the actual cost, the public body must refund the difference, or
- They do not have to, but if a public body underestimated the cost, they may charge an applicant for the balance.

The engineer kept a record of how long it took them to search, and the Department included in their submissions that the search took 592 minutes (almost 10 hours). The Department did not tell us what keywords they used for the search, but we know from the text of the access request that they searched through 16 years of email records, and used at least six keywords (two names, two parcel numbers, and two variations of a road name).

The Applicant did not give any response submissions. When a public body underestimates the cost and waives the difference, there is no rule in the *FOIPP Act* or regulations about proactively giving an applicant the time they spent processing the access request. Based on the information before me, I am satisfied that the Department included in their submissions enough details

about their search. I will not order the Department to give any further breakdown on the time they took to process the access request.

CONCLUSION

I confirm the Public Body's fee is reasonable and is in accordance with the *FOIPP Act*.

The Department gave us enough detail about their search, and I will not order the Department to give more information about the time they took to process the access request.

A handwritten signature in blue ink, reading "Maria C. MacDonald", is written over a horizontal line.

Maria C. MacDonald
Deputy Commissioner