

**Fees, Fee Estimates and Fee Waivers**

for requests under the

*Freedom of Information  
and Protection of Privacy Act*

and the

*Municipal Freedom of Information  
and Protection of Privacy Act*

**Guidelines for Government Institutions**



Dr. Ann Cavoukian, the Information and Privacy Commissioner of Ontario, gratefully acknowledges the work of Diane Frank and Susan Ostapiec in preparing this paper.

This publication is also available on the IPC website.



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## Introduction

Fees, fee estimates and fee waivers — the *Freedom of Information and Protection of Privacy Act* and the *Municipal Freedom of Information and Protection of Privacy Act* (the *Acts*) establish a scheme under which individuals seeking access to government records are required to bear some of the administrative costs involved in responding to their requests, with certain limited exceptions.

The purpose of this paper is to provide a reference tool to assist government institutions in determining the what, when and how of claiming and calculating fees.

While the *Acts* contemplate a “user pay” principle, it is nevertheless important for institutions to bear in mind that fees should never be used as a deterrent or barrier to access.

Institutions’ decisions on fees, fee estimates and fee waivers are all matters that may be appealed to the Office of the Information and Privacy Commissioner/Ontario (the IPC).

This paper is not intended as a detailed procedural guide, but supplements existing resources such as *IPC Practices*, IPC orders and the paper entitled *Processing Voluminous Requests: A Best Practice for Institutions*. Additional reference material may be found in the *Freedom of Information and Protection of Privacy Manual* published by Management Board Secretariat. Where sections of the *Acts* are cited in this document, the provincial section number will be listed first, followed by the municipal section number (e.g., sections 57/45).

## Fees

### What fees is the requester required to pay?

The charging of fees is authorized in sections 57/45 of the *Acts*. More specific provisions regarding fees are found in sections 6, 6.1, 7 and 9 of Regulations 460/823 made under the *Acts*.

An individual who makes a request for access to a record must pay a \$5 application fee. In addition, the requester must pay the fees for:

- manually searching for a record;
- preparing the record for disclosure;
- computer and other costs incurred in locating, retrieving, processing and copying a record;
- shipping costs; and
- other costs incurred in responding to a request, as set by regulation.

The Regulations prescribe the amount to be charged for each component of the fee. In addition to the fees charged for locating, retrieving and processing a record, fees are also established for:

- photocopies and computer printouts; and
- floppy disks.

See Appendix A for the full text of sections 57/45 of the *Act* and sections 6, 6.1, 7 and 9 of Regulations 460/823.

### What factors should be considered when calculating fees?

When applying the *Acts* and Regulations to the calculation of fees, institutions should consider the following:\*

#### Search time

*Note:* The institution cannot charge a fee for manually searching a record containing the requester's personal information.

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\* Where particular findings have been made in orders, references are provided.

When calculating search time, the institution should determine:

- the actions necessary to locate the requested records, taking into consideration how the records are stored and maintained; and
- the actual amount of time needed in each step of locating the requested records.

### **Preparation time**

*Note:* The institution cannot charge a fee for preparing a record for disclosure containing the requester's personal information.

Fees for preparation time apply only to the actual records to be disclosed.

Preparation for disclosure includes the amount of time spent:

- severing a record; [Order P-4]
  - generally, the permitted preparation time for severing records is two minutes per page, for pages that require multiple severances; [Orders MO-1169, PO-1721, PO-1834, PO-1990]
  - in some circumstances, the permitted preparation time may be less [Order M-163] or more [Order M-745] than two minutes per page; and
- running reports from a computer system. [Order M-1083]

Preparation for disclosure does **not** include time spent:

- deciding whether to claim an exemption; [Orders M-376, P-4, P-1536]
- identifying records that require severing; [Order MO-1380]
- identifying and preparing records that require third party notice; [Order MO-1380]
- packaging records for shipment; [Order P-4]
- transporting records to the mailroom or arranging for courier service; [Order P-4]
- for a computer to compile and print information; [Order M-1083]
- assembling information and proof-reading data; [Order M-1083]
- photocopying; [Order P-184] and
- preparing an index of records. [Orders P-741, P-1536]

### **Photocopies and computer printouts**

In calculating photocopy and computer printout costs, the institution may charge a fee for:

- each page that is photocopied and/or printed from the computer.

### **Computer costs**

In calculating computer costs, the institution may charge a fee for:

- the cost of developing a computer program to produce a record; and
- other costs for which the institution has been invoiced, including computer costs, for locating, retrieving, processing and copying the records.

### **Other costs**

The IPC has found that:

- “other costs” resulting from a request are intended to cover general administrative costs similar in nature to those listed in paragraphs (a) through (d) of sections 57/45 (as outlined on page 2), but not specifically mentioned. [Order MO-1380]

Other costs do **not** include:

- time spent responding to the requester; [Order MO-1380]
- time spent responding to the IPC during the course of an appeal; [Order MO-1380]
- legal costs associated with the request; [Order MO-1380] and
- costs, even if invoiced, that would not have been incurred had the request been processed by the institution’s staff. [Order P-1536]

# Fee Estimates

## Definitions

The following definitions may be helpful in understanding the concepts that follow.

### Fee estimate

A fee estimate is a detailed statement of the fee the requester will be required to pay. A fee estimate is required where the fee is \$25 or more.

Where the fee is over \$25 and under \$100, the fee estimate is based on the actual work done by the institution to respond to the request.

Where the fee is \$100 or more, the fee estimate may be based on a review of a representative sample of the records and/or the advice of knowledgeable institution staff that are familiar with the type and content of the records.

### Deposit

A deposit is a payment of 50 per cent of the fee, if the fee is \$100 or more.

### Interim access decision

An interim access decision is a decision of the institution where it has not completed all of the work necessary to respond to the request. This interim decision is based on a review of a representative sample of the records and/or the advice of knowledgeable institution staff that are familiar with the type and content of the records.

An interim access decision must be accompanied by a fee estimate and must contain the following elements:

- an indication of what exemptions or other provisions the institution might rely on to refuse access;
- a description of the records;
- an estimate of the extent to which access is likely to be granted;
- the name and position of the institution's decision maker;
- a statement indicating only the fee estimate may be appealed since a final access decision has not yet been made; and
- a statement indicating the requester may ask the institution to waive all or part of the fee.



## **Final access decision**

A final access decision is a decision by the institution where it has completed all of the work necessary to respond to the request. This access decision must state whether the institution is giving the requester access to the records.

If access is being refused, the decision must contain the following elements:

- the specific exemptions or other provisions the institution is relying on;
- a description of the records;
- the reasons the exemptions or other provisions apply;
- details of the institution's exercise of discretion;
- the name and position of the institution's decision maker;
- a statement indicating the decision may be appealed; and
- when accompanied by a fee estimate, a statement indicating the requester may ask the institution to waive all or part of the fee.

## **When must the institution provide a fee estimate, request a deposit, issue an interim access decision, or issue a final access decision?**

Whether the institution must provide a fee estimate, request a deposit, issue an interim access decision, or issue a final access decision is dependent upon the amount of the fee, as follows:

### **Where the fee is \$25 or less**

The institution must complete all work necessary to respond to the request. The institution must issue a final access decision. In this decision, the institution must advise the requester of the applicable fee and include a detailed breakdown of the fee. The institution cannot require the requester to pay a deposit.

### **Where the fee is over \$25 and under \$100**

The institution must complete all work necessary to respond to the request. The institution must issue a final access decision. The institution must include a fee estimate, based on the actual work done, in its final access decision. The institution cannot require the requester to pay a deposit.

### Where the fee is \$100 or more

The institution may choose **not** to do all of the work necessary to respond to the request, initially. In this case, it must issue an interim access decision. This interim decision must include a fee estimate, based on a review of a representative sample of the records and/or the advice of knowledgeable institution staff that are familiar with the type and content of the records. The institution may require the requester to pay a deposit equal to 50 per cent of the estimate before taking any further steps to respond to the request.

However, the institution may choose to do all of the work necessary to respond to the request at the outset. If so, it must issue a final access decision. In this decision, the institution must advise the requester of the applicable fee estimate, and include a detailed breakdown of the fee estimate, based on the actual work done. The institution may request a deposit or payment of the entire fee.

In either case, it may be advantageous to discuss the options with the requester before proceeding, as it will increase the likelihood that both parties' needs are met.

The chart below outlines when the institution must provide a fee estimate, request a deposit, issue an interim access decision, or issue a final access decision.

Fee Range	Must the institution complete all work necessary to respond to the request?	Must the institution issue a fee estimate?	May the institution require a deposit?	Must the institution issue an interim access decision?	Must the institution issue a final access decision?
\$25 or less	Yes	No	No	No	Yes
Over \$25 and Under \$100	Yes	Yes	No	No	Yes
\$100 or more	No, not initially, but it must do so once it receives a deposit	Yes	Yes	Yes, unless it decides to issue a final access decision	No, unless it decides not to issue an interim access decision

## **What is the purpose of providing a fee estimate and interim access decision?**

The purpose of the fee estimate is to provide the requester with a reasonable understanding of the costs involved in providing access, so that the requester has sufficient information to make an informed decision regarding the payment of fees.

The purpose of the interim access decision is to provide the requester with an indication as to whether access to the record will likely be given once the fees are paid.

Taken together, the purpose is to give the requester sufficient information to make an informed decision regarding whether to proceed with the request, and whether to accept or appeal the fee estimate.

## **How does the institution provide a reasonable fee estimate and an adequate interim access decision?**

Where the fee estimate is \$100 or more and the institution chooses not to complete all of the work necessary to respond to the request (until the requester pays a deposit), it must issue a fee estimate accompanied by an interim access decision.

The first step to properly determine the basis for the fee estimate and interim decision is to obtain a representative sample and/or consult with employees familiar with the type and content of the records. To do this, the institution must ensure:

- the sample contains all types of responsive records; and/or
- any consultations with employees include discussions about all types of responsive records.

The next step is to create a detailed breakdown of the calculation of each element of the estimated fee (i.e., search time, preparation time, computer costs, etc.) including:

- a description of the records responsive to the request;
- the location of the records (e.g., legal department files, enforcement branch files, etc.);
- whether any records contain personal information of the requester and therefore are not included in the search fee;

- whether the requester is likely to be given access to the requested records, in whole or in part;
- which exemptions may apply (in the absence of any cited exemptions, it is reasonable for a requester to infer that the records will be released in their entirety upon payment of the required fee);
- the degree of disclosure (e.g., 10, 50, or 95 per cent of total records and/or the estimated number of pages or parts of pages to which access will be granted); and
- the degree of severing for parts of records (i.e., low, moderate, or extensive).

See Appendix B for a sample fee estimate and interim access decision calculation form and Appendix C for a sample fee estimate and interim access decision letter.

## **What are the institution's obligations regarding fee waivers?**

An institution's obligations regarding fee waivers start at the request processing stage. Whenever fees are assessed, the institution should advise the requester that the *Act* permits the waiver of payment of all or part of the fee, in certain circumstances. The institution should provide the requester with either an explanation of sections 57(4)/45(4) or a copy of the section. As well, the institution should advise the requester of the type of evidence required to make a waiver determination. Finally, after having considered the fee waiver request, the institution must provide the requester with a decision in writing.

## **What are the requester's obligations regarding fee waivers?**

The requester's obligations in seeking fee waivers also start at the request processing stage. After being notified by the institution of the possibility of a fee waiver, the requester should then ask the institution for a fee waiver, if the requester believes he/she might qualify. The requester bears the initial responsibility of establishing his/her case to the institution.

## **What is the basis for waiving fees?**

Sections 57(4)/45(4) require the institution to waive fees, in whole or in part, in certain specified circumstances, if, in the head's opinion, it is fair and equitable to do. Section 8 of Regulations 460/823 set out additional matters for the head to consider when deciding whether to waive a fee (see Appendix D).

The following factors provide the basis for the institution when considering a fee waiver request:

- actual cost of processing the request as compared to the fee estimate;
- financial hardship:
  - generally, the requester must provide details regarding his/her financial situation, which may include information about income, assets and expenses; [Orders M-914, P-591, P-700, P-1142, P-1365, P-1393]
  - when the fee is large, this does not necessarily mean that payment of the fee will cause financial hardship; [Order P-1402];
- public health or safety:
  - whether the subject matter of the record is a matter of public rather than private interest;
  - whether the subject matter of the record relates directly to a public health or safety issue;
  - whether the dissemination of the record would yield a public benefit by disclosing a public health or safety concern, or contributing meaningfully to the development of understanding of an important public health or safety issue; and
  - the probability that the requester will disseminate the contents of the record; [Orders P-2, P-474, PO-1953-F, PO-1962]
- dissemination of the record. The IPC has found that dissemination of the record will benefit public health or safety where, for example, the record relates to:
  - compliance with air and water discharge standards; [Order PO-1909]
  - a proposed landfill site; [Order M-408]
  - a certificate of approval to discharge air emissions into the natural environment at a specified location; [Order PO-1688]
  - nuclear safety; [Order P-270, P-1190]
  - environmental concerns associated with the issue of extending cottage leases in provincial parks; and [Order PO-1688]
  - quality of care and service at group homes; [Order PO-1962]

- other matters prescribed in the Regulations:
  - whether the requester is given access to the record; and
  - if the amount of the payment would be \$5 or less, whether the amount is too small to justify payment.

## **When is it fair and equitable to waive fees?**

The *Acts* require the institution to determine whether it is “fair and equitable” to waive the fee. Relevant factors in deciding whether a fee waiver would be “fair and equitable” may include:

- the manner in which the institution attempted to respond to the requester;
- whether the institution worked with the requester to narrow and/or clarify the request;
- whether the institution provided any documentation to the requester free of charge;
- whether the requester worked constructively with the institution to narrow the scope of the request;
- whether the requester has advanced a compromise solution which would reduce costs; and
- whether the waiver of the fee would shift an unreasonable burden of the cost from the requester to the institution.

[Orders M-166, M-408, PO-1953-F]

## **Of the types of decisions discussed, which ones may be appealed?**

### **Where the fee is \$25 or less**

Since this decision must be a final access decision, both the fee and the final access decision may be appealed.

### **Where the fee is over \$25 and under \$100**

Since this decision must be a final access decision, both the fee estimate and the final access decision may be appealed.

### **Where the fee is \$100 or more**

If the institution chooses **not** to do all of the work necessary to respond to the request, initially, then it must issue a fee estimate and an interim access decision. The fee estimate may be appealed. Whether the interim access decision contains all of the required elements may also be appealed. However, whether the exemptions or other provisions the institution cites actually apply to the records may not be appealed until the institution issues a final access decision.

Where the institution chooses to do all of the work necessary to respond to the request at the outset, and it issues a final access decision and fee estimate (based on the actual work done), both the fee estimate and the access decision may be appealed.

### **Where the institution has denied a fee waiver request**

Where the institution has denied a fee waiver in an interim or final access decision, the requester may appeal the denial of the fee waiver.

## Conclusion

One purpose of the *Acts* is to provide a right of access to information under the control of institutions. While institutions are required to charge fees for search, preparation, computer and other costs, and shipping (subject to the *Acts*' mandatory fee waiver provisions), it is important that institutions not only properly estimate and calculate the fees, but that they also provide a detailed explanation of how the fees were calculated. If the institution chooses to issue an interim access decision, that decision must indicate whether access is likely to be given and the degree of disclosure. In so doing, requesters are then able to make an informed decision as to whether to pursue access to the requested records, and/or whether to exercise their right of appeal.



## Appendix A — Sections 57(1)/45(1) of the Acts

Sections 57(1)/45(1) require an institution to charge fees for requests under the *Act*, as follows:

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.

More specific provisions regarding fees are found in sections 6, 6.1, 7 and 9 of Regulations 460/823 under the *Acts*, as follows:

6. The following are the fees that shall be charged for the purposes of subsection 57(1) of the *Act* for access to a record:

1. For photocopies and computer printouts, 20 cents per page.
2. For floppy disks, \$10 for each disk.
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.
5. For developing a computer program or other method of producing a record from machine readable record, \$15 for each 15 minutes spent by any person.
6. The costs, including computer costs, that the institution incurs in locating, retrieving, processing and copying the record if those costs are specified in an invoice that the institution has received.

6.1 The following are the fees that shall be charged for the purposes of subsection 57(1) of the Act for access to personal information about the individual making the request for access:

1. For photocopies and computer printouts, 20 cents per page.
2. For floppy disks, \$10 for each disk.
3. For developing a computer program or other method of producing a record from machine readable record, \$15 for each 15 minutes spent by any person.
4. The costs, including computer costs that the institution incurs in locating retrieving, processing and copying the record if those costs are specified in an invoice that the institution has received.

7.(1) If a head gives a person an estimate of an amount payable under the Act and the estimate is \$100 or more, the head may require the person to pay a deposit equal to 50 per cent of the estimate before the head takes any further steps to respond to the request.

(2) A head shall refund any amount paid under subsection (1) that is subsequently waived.

9. If a person is required to pay a fee for access to a record, the head may require the person to do so before giving the person access to the record.

# Appendix B — Sample Fee Estimate and Interim Access Decision Calculation Form

## Fee Estimate and Interim Access Decision Calculation Form

*To be completed by the employee conducting the search for the representative sample and/or consulting with experienced employees.*

Complete this form if the fee is estimated to be \$100 or more (typically **greater than 3 hours** of search time). Please keep detailed notes of the search — in the event of an appeal, you may be required to defend the extent of the search by providing a sworn affidavit or by giving evidence at an oral inquiry.

Please note: Before you begin, please re-read the text of the request to ensure you understand exactly what the applicant is requesting, then consider whether you have any records which would be responsive. If you are unsure about the scope of the request, please contact the Information and Privacy Unit at [TELEPHONE NUMBER].

Where the estimate of the amount payable is \$100 or more, your search may be based on a representative sample and/or consultations with knowledgeable institution staff that are familiar with the type and content of the records.

Whether you choose to do a representative sample and/or consultations with experienced staff, all types of records (e.g., paper and electronic files, special media) should be searched and/or discussed. If searching a representative sample, you should check at least half of a file drawer, storage box and/or computer file/folder. An average one-inch paper file folder holds approximately 150–200 (single-sided) pages.

### I. Fee estimate based on searching a representative sample

#### Search time

What places were searched (e.g., what files in which offices or file rooms – for example, legal department, enforcement branch, etc.)

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Methods/processes used to conduct the search and types of files searched (e.g., searching e-mail, other electronic files, paper files, file lists, off-site file lists, microfiche, etc.)

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Determine whether the records contain the personal information of the requester. If so, the institution cannot charge a fee for manually searching for these records

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	PAGES	HOURS
Number of hours to search the sample		
Estimated number of hours to complete entire search		
Number of pages of responsive records found in the sample		
<b>Estimated total number of pages</b> responsive to the request		
<b>Preparation time</b> (note: average time to sever = 2 minutes per page) <b>and Photocopying</b>		
Number of pages in the sample requiring partial or full severances (e.g., third party information, another individual's personal information)		
<i>Note: The institution cannot charge a fee for preparing a record for disclosure containing the requester's personal information</i>		
Number of pages in the sample to be photocopied		
Estimated total number of pages to be photocopied		
<b>Other costs</b>		
Number of hours of computer programming (if applicable) required to retrieve the responsive records		
Other costs, if any, incurred in searching the sample _____ (type)		
<b>Estimated total fee</b> including, where applicable: search time; preparation time; computer and other costs in locating, retrieving, processing and copying, and shipping costs		
Name(s) and titles of any staff contacted during the search		
_____		
_____		

## II. Fee estimate based on consultation with employees

Name(s) and titles of employees involved in consultations

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### Search time

What files were discussed (e.g., what files in which offices or file rooms – for example, legal department, enforcement branch, etc.)

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Determine whether the records are likely to contain the personal information of the requester. If so, the institution cannot charge a fee for manually searching for these records

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Estimated number of hours to complete entire search

Estimated total number of pages responsive to the request

### Preparation time (note: average time to sever = 2 minutes per page) and Photocopying

Estimated number of pages requiring partial or full severances (e.g., third party information, another individual's personal information)

Note: The institution cannot charge a fee for preparing a record for disclosure containing the requester's personal information

Estimated number of pages to be photocopied

### Other costs

Estimated number of hours of computer programming (if applicable) required to retrieve the responsive records

Estimated other costs, if any \_\_\_\_\_ (type)

**Estimated total fee** including, where applicable: search time, preparation time, computer and other costs in locating, retrieving, processing and copying, and shipping costs

**Estimated total number of pages** for the entire responsive records package

PAGES	HOURS

### **III. Preparing an interim access decision**

Is the requester likely to be given access to the requested records, in whole or in part?

\_\_\_\_\_

Exemptions or other provisions that may apply (in the absence of any cited exemptions, it is reasonable for a requester to infer the records will be released in their entirety upon payment of the required fee)

\_\_\_\_\_

Description of types of records \_\_\_\_\_

\_\_\_\_\_

Degree of disclosure (e.g., 10, 50, or 95 per cent of total records and/or the estimated number of pages or parts of pages to which access will be granted)

\_\_\_\_\_

Degree of severing for parts of records (i.e., low, moderate or extensive)

\_\_\_\_\_

Request #: \_\_\_\_\_

Name: \_\_\_\_\_

District/Region: \_\_\_\_\_

Position/Responsibilities: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Date(s) of search: \_\_\_\_\_

## Appendix C — Sample Fee Estimate and Interim Access Decision Letter

Please note: Where request-specific information is required, or where sample figures have been provided, the text has been enclosed in square brackets.

[DATE]

Dear [NAME OF REQUESTER]

Reference Number: [REFERENCE NUMBER]

In response to your request made under the [MUNICIPAL] *Freedom of Information and Protection of Privacy Act* (the *Act*), I am providing you with a fee estimate and interim access decision.

Your request was for access to the following records pertaining to [A NAMED ENTITY]:

1. All reports, briefing papers, discussion papers and evaluations of the funding proposal to create [THE NAMED ENTITY].
2. All approvals and authorizations for grants, including all assessments and audit reports.
3. The most recent application for additional funding, together with all reports, briefing notes, briefing papers, memos, letters, faxes and e-mails discussing, reacting to or evaluating that application.
4. All reports evaluating [THE NAMED ENTITY'S] performance and its future prospects.

The *Act* contemplates a user-pay principal. Based on my review of a representative sample of the records obtained from the [LIST NAMES OF ALL PROGRAM AREAS], I estimate there are approximately [5200 PAGES] of records responsive to your request and the total fees to process your request will be approximately [\$2600.00]. In our telephone conversation of [DATE], you clarified that:

- you do not want access to newspaper articles and records responsive to item 3; and
- you do want access to duplicates.

The fee estimate is broken down as follows:

[NAME OF FIRST PROGRAM AREA]

Search: [3] hours @ \$30 per hour = [\$90.00]

Preparation: [4] hours @ \$30 per hour = [\$120.00]

(approximately [10] per cent of records will have severances  
— possibly [120] pages @ 2 minutes per page = [4] hours)

Photocopying: [1,200] pages @ \$0.20 per page = [\$240.00]

Based on a search of the representative sample, the following *types of records* were identified as responsive to your request:

**Item 1 of request**

- Minutes of meetings
- Business plan
- Correspondence between [NAMED ENTITY] and ministry staff
- Application and evaluation correspondence
- Stakeholders Forum meeting

**Item 2 of request**

- Payment request forms
- Financial statements

**Item 3 of request**

- Board of Directors agendas for meetings
- Internal correspondence
- Correspondence regarding site planning

**Item 4 of request**

- Annual report
- Media report

[NAME OF SECOND PROGRAM AREA]

Search: [25] hours @ \$30 per hour = [\$750.00]

Preparation: [20] hours @ \$30 per hour = [\$600.00]

(approximately [15] per cent of records will have severances  
— possibly [600] pages @ 2 minutes per page = [20] hours)

Photocopying: [4,000] pages @ \$0.20 per copy = [\$800.00]



**Item 1 of request**

- Progress reports
- Concept report
- Presentation report
- Internal correspondence
- Correspondence with [named entity] and others
- Stakeholders Forum meeting
- Minutes of meetings (Executive and Board)
- Financial statements

**Item 2 of request**

- Funding agreement
- Internal correspondence
- Briefing notes
- Financial statements
- Correspondence with [NAMED ENTITY] and others
- Payment requests and supporting documentation
- Expenditure records and invoices

**Item 3 of request**

- Internal correspondence
- Correspondence with [NAMED ENTITY]
- Draft evaluation reports
- [NAMED ENTITY]'s meeting notes

As we have not yet completed the search and reviewed all of the records in detail, no final decision has been made regarding access. It is likely that third party notification will be required since the requested records relate to other individuals and/or third parties.

Based on the review of the representative sample, I estimate that partial access to the records will be granted. Specifically, the exemptions in sections 17(1)(a) and (c) and possibly section 21(1) may apply to a small portion of some of the responsive records under items 1 and 2. The majority of records in item 3 may be exempt under sections 13(1) and 17(1)(a) and (c).

The costs outlined above are in accordance with section 6 of Regulation 460 made under the *Act*. In accordance with section 7.1 of Regulation 460, where the fee estimate is \$100.00 or more, an institution may request a deposit equal to 50 per cent of the estimated fee before taking any further steps to process the request. Please forward a deposit in the amount of [\$1,300.00] by cheque or money order, payable to the Minister of Finance. Please remit payment to [name], Freedom of Information and Privacy Co-ordinator, [MINISTRY NAME, MINISTRY ADDRESS].

The *Act* provides that all or part of the fee can be waived if, in our opinion, it is fair and equitable to do so, in certain circumstances. Enclosed please find copies of section [57(4) (FOR PROVINCIAL REQUESTS) OR 45(4) (FOR MUNICIPAL REQUESTS)] of the *Act* and section 8 of Regulation [460 (for provincial requests) or 823 (for municipal requests)]. You may be required to provide evidence in support of any fee waiver request. Please notify me as soon as possible if you wish to proceed with a request for a fee waiver.

If you would like to discuss revising your request with a view to reducing the estimated fee, or if you have any questions, please don't hesitate to contact me. I can be reached at [AREA CODE, TELEPHONE NUMBER].

[NAME AND TITLE OF DELEGATED DECISION MAKER] is responsible for making this decision.

You may request that this fee estimate be reviewed by writing to the Information and Privacy Commissioner/Ontario at 1400-2 Bloor Street East, Toronto, Ontario, M4W 1A8.

Please note that you have 30 days from the receipt of this letter to request a review from the Commissioner. If you decide to request a review of this decision, please provide the Commissioner's office with the following:

- The file number listed at the beginning of this letter.
- A copy of this decision letter.
- A copy of your request that you sent to this institution.
- An appeal fee of [\$10.00 (FOR PERSONAL INFORMATION) OR \$25.00 (FOR GENERAL RECORDS)] (cheque or money order) payable to the Minister of Finance.

Sincerely,

[NAME OF CO-ORDINATOR]  
Information and Privacy Co-ordinator

## **Appendix D — Sections 57(4)/45(4) of the *Acts* and Section 8 of Regulations 460/823**

Sections 57(4)/45(4) of the *Acts* require an institution to waive fees, in whole or in part, in certain circumstances.

57. (4) A head shall waive the payment of all or any part of an amount required to be paid under subsection (1) if, in the head's opinion, it is fair and equitable to do so after considering:

- (a) the extent to which the actual cost of processing, collecting and copying the record varies from the amount of the payment required by subsection (1);
- (b) whether the payment will cause a financial hardship for the person requesting the record;
- (c) whether dissemination of the record will benefit public health or safety; and
- (d) any other matter prescribed by the regulations.

Section 8 of Regulations 460/823 sets out additional matters for a head to consider in deciding whether to waive a fee, as follows:

8. The following are prescribed as matters for a head to consider in deciding whether to waive all or part of a payment required to be made under the Act:

- 1. Whether the person requesting access to the record is given access to it.
- 2. If the amount of a payment would be \$5 or less, whether the amount of the payment is too small to justify requiring payment.