



Prince Edward Island

Legislative Assembly

*Information and
Privacy Commissioner*
PO Box 2000, Charlottetown, PE
Canada C1A 7N8

Île-du-Prince-Édouard

Assemblée législative

*Commissaire à l'information et
à la protection de la vie privée*
C.P. 2000, Charlottetown, PE
Canada C1A 7N8

February 25, 2009

PRIVATE AND CONFIDENTIAL

AU-09-001

Dr. Michael Mayne, Deputy Minister
Department of Innovation and Advanced Learning
P. O. Box 2000
Charlottetown, PE
C1A 7N8

Dear Dr. Mayne:

**Re: Request under the *Freedom of Information and Protection of Privacy Act*
Request for Authorization under Section 52 of the Act
Public Body: PEI Business Development Inc.
Ref. No.: DT-006-07
Our File No: FI-08-093 [BDI]**

I have reviewed the file in the matter of your public body's request for an authorization to disregard the above captioned request under section 52 of the FOIPP Act. The circumstances of this request are virtually identical to the same Applicant's request made to PEI Lending Agency, Ref. No. PT0709, our file No. FI-08-096. Although I had separated these requests into two separate files, because the public bodies are two separate legal entities, my decision on both section 52 requests are identical as the issues raised are identical.

The Public Body pointed out that the information requested by the Applicant does not exist in the format requested, and argues that a new spreadsheet would have to be developed. The Public Body provided a detailed description of the process that would be involved in obtaining a loan or grant and the process involved in carrying out this request, including: (a) the interaction required with third parties, and (b) the verification process for ensuring the accuracy of the client lists. As well, a description of each of the four types of files involved was given, namely, (i) approval files, (ii) legal files, (iii) financial files and (iv) background files. The Public Body argues that processing the request will unreasonably interfere with its operations, frustrating the administration of its programs and activities, causing its staff to neglect their regular duties and responsibilities, creating undue hardship, and "potentially requiring additional resources at an added cost to the Public Body."

The Applicant's request was amended at the suggestion of the Public Body and in its final form says:

all the loan and grant agreements relating to assistance provided by PEI BDI to all companies for the years 2005, 2006 and 2007 to date. [underlined word added by the amendment]

Looking at the Public Body's arguments and those of the Applicant, it became apparent to me that the Applicant's arguments do not coincide with his request for access. Although the request for access was for "all loan and grant agreements", the arguments of the Applicant show that the Applicant's intention was to obtain financial information rather than paper documents. It is clear that the Applicant is not asking for all records in all types of files, and he says:

I'm not sure why promissory notes, mortgages, business plans, product information etc. are pertinent in this case. I'm not asking for any of that. If the Public Body says it pays out close to 95 % of approved loans, then it must have the final totals of each loan — and who it paid it to. Otherwise, how does the Public Body know just how much it's lent out each year, if it's not keeping track of the amount of each loan."

The Applicant further submits that

... in this case, we're dealing with millions and millions of taxpayers' dollars. If the Public Body finds it so hard to retrieve this information, then it begs the question ... just how DOES it keep track of the total amount it's loaned out, and to whom. I'm sure most Islanders would NOT call this a "frivolous" request. I think the time the Public Body would take — and the amount of money it would spend to get this information would be well worth it. All taxpayers have a right to know who's the Public Body is loaning money to — and how much.

It appears that any confusion between the parties was exacerbated by the amendment of the original access to information request to add the word "agreements". I asked the Applicant to clarify whether he wanted the tangible paper agreements that the Public Body would have with the loan and grant recipients, or if he was seeking access to the intangible financial information contained in the records of the Public Body. The Applicant confirmed that his interest was not in the agreements themselves, but in the dollars expended by the Public Body for loans and grants in the periods requested. I am satisfied that the Applicant's actual request is intended to be for financial information and not paper records.

A request for financial information makes all the difference. If the paper agreements are not sought by the Applicant, there is no longer any need to search through banker boxes and go through the wording of agreements line by line. Financial records are infinitely more amenable to analysis and sorting in a convenient manner than records dealing mainly with non-financial data.

The Public Body emphasizes that it would take many hours to verify the accuracy of client lists and to locate the records, overburdening both the operating and administrative staff. However, there is a significant difference in dealing with requests for financial information because financial information can be manipulated in aggregate. Reports can be generated from spreadsheets or databases using fields that do not have personal information imbedded in them, or using different parameters for fields containing personal information. Spreadsheets are used to organize, manipulate and analyze data. A person working with financial data in a spreadsheet can easily and quickly sort, filter and consolidate data to produce the information required for a particular purpose. Spreadsheet software also provides statistical analysis tools, and a user can, for example, create frequency distribution tables, perform matrix operations, or create variable “what-if” tables. This is not an exhaustive list of what operations can be performed using spreadsheets, but these are standard functionalities of spreadsheet programs. Databases can be similarly manipulated to produce comprehensive or specific reports depending on the queries made.

I venture to say that the Public Body has all the information of interest to the Applicant in electronic form already — in an electronic spreadsheet or database. The Public Body says it would have to create a new spreadsheet to compile the information that the Applicant wants. They could create a new spreadsheet, but it is not necessary to do that. The Public Body obviously already uses spreadsheets (or databases — I use the word “spreadsheet” here to mean either, since similar information can be retrieved from either type of software) to track this information for its own purposes. The beauty of spreadsheet software is in its versatility. Once the information has been entered into a spreadsheet, it can be manipulated in very short periods of time; most of the time involved is typically needed to determine what kind of information or report is sought, rather than the actual search for it. It is obvious that a public body can manipulate its spreadsheet data daily for any variety of reasons, such as determining how many loans or grants it issued in the last six months, how many borrowers in what areas of the province received the most money, how many applications are pending, or how many loans are in default and for how long, etc. The Public Body can respond to a demand for information internally by choosing the fields to be compiled in a report generated by a spreadsheet. This information can then be given to the Minister or the Deputy Minister, or can be used in a variety of ways such as determining the total amount currently outstanding as loans, or whether the program is deemed to be a success, etc. The Applicant is not interested in a tailor-made spreadsheet developed just for his request. The Applicant’s point is that the government must surely be keeping records of its programs and it must be able to track those loans or grants.

The only real issue for the Public Body is how to present the data to the Applicant in a form that will comply with the FOIPP Act. There is no paper search necessary for this access request; surely the Public Body is satisfied with the accuracy of the information entered by its employees in its spreadsheets to the extent of relying on it daily for its own purposes. I fail to see the necessity for further verification. Therefore, I find that the arguments of the Public Body regarding interference with the operations of the Public Body are untenable, and there is no actual necessity for 110 hours of searching papers, verification and the development of a

separate spreadsheet to meet the access request. I must conclude that, having clarified that it is financial information that is of interest to the Applicant, the work necessary to provide such financial information is not nearly as onerous as a search for “agreements”.

Although the Public Body argues that the information does not exist in the format requested (by the Applicant), I do not find any implication from the Applicant’s arguments that he seeks a particular electronic or paper format (other than the fact that the word “agreements” was a stumbling block). It appears from his arguments that the Applicant wants the same kind of information as the Public Body uses in its everyday financial tracking of its loans and grants, insofar as the information can be disclosed in accordance with the FOIPP Act. The practical result is that the Public Body can assist the Applicant under section 8 of the Act to determine just what fields can be queried and what reports can be generated from the spreadsheets to fulfill the access request.

Based on a review of the submissions of the parties and the factors that I have identified, I decline to authorize the Public Body to disregard the access to information request of the Applicant under section 52 of the FOIPP Act. Therefore the access request of the Applicant should proceed. However, I strongly urge the Public Body to assist the Applicant by enabling a joint effort with its FOIPP coordinator and an employee who is familiar with its spreadsheets to work with the Applicant, to determine what kinds of reports could be generated by the accounting spreadsheets of the Public Body that would be satisfactory to both parties. In other words, the parties should be able to refine the access request to render it sufficiently clear so as to enable an employee of the Public Body familiar with the records of the Public Body to identify the records containing the information and thereby generate the information requested from the accounting spreadsheets of the Public Body. I think it would be useful to start first with a one-year period chosen by the Applicant to see what kinds of reports could be generated that would be satisfactory to both parties.

Yours truly,

Judy Haldemann
Acting Information and Privacy Commissioner

cc: Camilla McAleer, FOIPP Coordinator
Applicant