



OFFICE OF THE INFORMATION
AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

Report A-2019-006

January 25, 2019

Department of Finance

Summary:

The Department of Finance received an access to information request for a breakdown of the deficit reduction since 2016. The Department responded, providing the Complainant with a breakdown of the information he requested. The Complainant asked the Commissioner to review the Department's response, claiming it was not factual and that there was no information from the period of March 2018 to the date of the request's submission. The Commissioner determined the Department appropriately responded to the Complainant's request and found that the Department adequately discharged its duty to assist under the *ATIPPA, 2015*.

Statutes Cited:

[Access to Information and Protection of Privacy Act, 2015](#),
S.N.L. 2015, c. A-1.2, section 13.

Authorities Relied On:

[Report A-2009-011](#).

I BACKGROUND

- [1] On October 9, 2018, the Department of Finance (the “Department”) received an access request pursuant to the *Access to Information and Protection of Privacy Act, 2015* (the “ATIPPA, 2015” or the “Act”) seeking:

I would like a breakdown of the 2 billion dollar deficit reduction that the Premier keeps referring to from 2016 to today. Please provide the details as follows 1) Tax and fees revenue increases 2) Offshore oil/Royalties increases 3) Other revenue increases 4) Expenditure reductions.

- [2] The Department responded on November 6, 2018, providing a breakdown of the information in its final response to the Applicant.
- [3] The Applicant was unsatisfied with the response from the Department and filed a complaint with this Office.

II COMPLAINANT’S POSITION

- [4] The Complainant submitted that the information provided in the response to his request was not factual and was deceptive. The Complainant stated it was his belief that the numbers “mean absolutely nothing other than an employee trying to substantiate outright misinformation being supplied by elected officials to the general public.”
- [5] As part of his submissions, the Complainant supplied his own breakdown of numbers to suggest the information provided by the Department was not accurate.
- [6] The Complainant also noted that he sought information from the Department from 2016 to October 9, 2018 and states that the Department did not include information from the period of March to October 2018.

III DEPARTMENT'S POSITION

[7] The Department's position is that the information is accurate based on a different set of numbers than the Complainant used to make his own calculations:

[I]nformation provided in the Department's response was based on forecast projections and not audited financial statements. Budgeting projections (provided in the Department's response) and Public Accounts (the applicant's calculations) require two separate processes and as such cannot be reconciled. The Province's financial statements (Public Accounts) are prepared based on actual revenues received and actual spending that has occurred in the previous year, which are audited by the Auditor General. The amounts referenced in Department's response were derived from forecasts that were compiled based on anticipated revenue and expense projections for the coming fiscal year. Therefore, comparisons of Public Accounts to Budget (or vice versa) is not appropriate because estimates and assumptions used when predicting the future financial trends often differ from the actual results.

[8] The Department submits that the information it provided "is based on a zero-based budgetary process that reflects best practices in other jurisdictions across the country."

[9] The Department states that upon receipt of a second request from the Complainant seeking further information, it attempted to clarify for the Complainant how it prepared the information in the response.

[10] The Department notes that the Province's financial statements, which are prepared based on actual revenue and actual spending, are completed at the end of each fiscal year (March 31), released in October of that year, and made publicly available on the Department's website.

[11] The Department elaborated on why information from March 31 to October was not available in an email to this Office:

The preparation of monthly consolidated financial statements for the Province would be a considerable lengthy task due to a number of factors:

- *To prepare such statements, the Province would require updated monthly financial information from its 18 Government departments, as*

well as monthly financial statements from the 51 Crowns, Boards and Agencies (CBAs) that are consolidated. The ability to provide this information on such a frequent basis is complicated by the fact that Government departments and CBAs do not use the same financial accounting system. While all Government departments avail of the same financial system, each of the CBAs have their own financial accounting systems. Therefore, the general ledger maintained by the Department of Finance for departmental financial transactions would exclude any transactions initiated by the CBAs.

- *From a Government department perspective, the general ledger is maintained on a modified-cash basis of accounting, consistent with the basis in which the Estimates (budget) are prepared. To produce the Province's financial statements requires the summarization of this data in a format consistent for financial statement presentation, as well as a number of accounting adjustments to change the basis of accounting to accrual based financial statements. This again would be a considerable task to complete in a timely manner for monthly financial statements.*
- *As well, a number of the CBAs are relatively small organizations with limited human resources to provide compile such information in a timely manner to produce monthly financial statements.*

While these issues combine to limit Government's ability to prepare monthly financial statements in a timely manner, there are financial controls and reports maintained with the financial system used by departments to ensure that expenses do not exceed approved budgetary amounts.

The practice of not preparing monthly financial statements does not appear to be unique to this Province. A jurisdictional scan of the other provinces indicated that only one other jurisdiction prepared a monthly financial statement of operations.

[12] Therefore, the Department asserts the records from March to October 2018 did not exist at the time it responded to the request.

IV DECISION

[13] The Complainant alleged that the search for records was inadequate, asserting that there are additional records responsive to his request that the Department failed to disclose. The Complainant further alleges that the information provided is not factual.

Conducting a reasonable search is considered to be part of the duty to assist an applicant, so I must first consider whether the Department fulfilled its duty to assist under section 13 of the *ATIPPA, 2015*:

13.(1) The head of a public body shall make every reasonable effort to assist an applicant in making a request and to respond without delay to an applicant in an open, accurate and complete manner.

(2) The applicant and the head of the public body shall communicate with one another under this Part through the coordinator.

[14] Report A-2009-011 discusses the duty to assist:

[80] The duty to assist, then, may be understood as having three separate components. First, the public body must assist an applicant in the early stages of making a request. Second, it must conduct a reasonable search for the requested records. Third, it must respond to the applicant in an open, accurate and complete manner.

[15] Report A-2009-011 also states that “the standard against which the duty to assist is measured is reasonableness, not perfection.”

[16] The Complainant submitted his request to the Department seeking a breakdown of information that the Premier referenced on October 9, 2018. On November 6, 2018, the Department issued its final response, providing a breakdown of the information the Complainant requested. It was not until after receipt of that response that the Complainant requested audited financial statements used to produce the numbers in the Department’s response. The Complainant filed a complaint with this Office the day after modifying his request. Although a complaint was made to this Office, the Department attempted to explain to the Complainant why the numbers differed from his own breakdown of numbers.

[17] The Department provided a reasonable explanation as to why records from March to October 2018 were unavailable (as set out above in the Department’s position). There is no merit to the Complainant’s assertion that the Department’s search was inadequate.

[18] As for the Complainant's allegation that the records provided by the Department were deceptive, the Department also explained to the Complainant why the information was different than he expected. Doing so is consistent with the Department's discharge of its duty to assist.

V CONCLUSIONS

[19] I conclude that the Department provided records responsive to the Complainant's request in the form that he requested. The Department also provided a reasonable explanation as to why information between March and October 2018 was unavailable.

[20] I further conclude that the Department discharged its duty to assist the Applicant during the request process.

VI RECOMMENDATIONS

[21] Under the authority of section 47 of the *ATIPPA, 2015*, I recommend that the Department confirm and maintain its original response to the Applicant's request.

[22] As set out in section 49(1)(b) of the *ATIPPA, 2015*, the head of the Department must give written notice of his or her decision with respect to this recommendation to the Commissioner and any person who was sent a copy of this Report within 10 business days of receiving this Report.

[23] Dated at St. John's, in the Province of Newfoundland and Labrador, this 25th day of January 2019.

Donovan Molloy, Q.C.
Information and Privacy Commissioner
Newfoundland and Labrador