

**NORTHWEST TERRITORIES
INFORMATION AND PRIVACY COMMISSIONER**

Review Report 20-243

Citation: 2020 NTIPC 47

File: 19-268-4

September 28, 2020

BACKGROUND

The Applicant made a request to the Department of Health and Social Services on July 23rd, 2019 for:

All internal correspondence, reports or all other documents regarding malfunctioning or improperly working equipment or infrastructure at the new Stanton Territorial Hospital between May 26, 2019 and July 1, 2019.

That request was transferred in accordance with section 12 of the *Access to Information and Protection of Privacy Act* to the Northwest Territories Health and Social Services Authority (NTHSSA) as the public body best positioned to provide the responsive records.

After discussions with the ATIPP Coordinator for NTHSSA, on July 29th, 2019 the Applicant agreed to revise his request to the following:

All internal correspondence, reports or any other documents regarding malfunctioning or improperly working equipment that would impact the medical staff ability to do their job or impact patient's care at the new Stanton Territorial Hospital between May 26, 2019 and July 1, 2019.

This change to the request was confirmed and acknowledged by both parties in email correspondence on July 29th and subsequent days.

On August 22nd, the Applicant received correspondence from the ATIPP Coordinator for NTHSSA with a fee estimate which indicated that the Department had identified 1107 pages of responsive records and anticipated that more would be discovered as the search process continued. The fee estimate was for a total of \$162. This letter also included notification of an extension of time pursuant to section 11 of the Act for an additional 45 days. The Applicant paid ½ of the fee estimate as required by Regulation 13(1) under the ATIPP Act.

On October 21st, the Applicant received a disclosure package which had only 55 pages of responsive records. When he asked when he could expect to receive the rest of the documents, he was told by the ATIPP Coordinator that while the Department did retrieve and review over 1000 pages of records, that he had been “able to narrow that number of pages down to 55 pages of records”. It is relevant that between the date the fee estimate letter was written and the response was provided to the Applicant there had been a change in personnel at the ATIPP Coordinator position and the Applicant was now dealing with a different individual, which may account for some of the confusion in relation to this file.

The Applicant was also concerned that the new ATIPP Coordinator had indicated that he was required to get approval from the CEO before he could release the disclosure package. The Applicant questioned whether it was appropriate for management to be interfering in making decisions with respect to disclosure.

The Applicant indicated that he attempted to discuss these issues with the new ATIPP Coordinator, but was unable to resolve his concerns. When the Applicant indicated that his next step, then, was to ask the Office of the Information and Privacy Commissioner to review the matter, the ATIPP Coordinator urged him not to do so and “guaranteed [he] wouldn’t be satisfied with the outcome of that process, and offered to instead refund the \$81 [he] paid”.

On November 19, 2019, the Applicant sought a review by this office.

THE DEPARTMENT'S RESPONSE

The Department took the position that the estimate of the number of responsive records and, therefore, the fee estimate included in the August 22nd letter, reflected the parameters of the Applicant's initial request for information. The number of responsive records, they say, was drastically reduced as a result of the reduced scope of the Applicant's revised request and instead of there being over 1000 pages of responsive records there were, in fact, only 350 pages of responsive records, which the Department "was able" to hone down further to the 55 pages actually disclosed.

The Department noted:

When the scope of the request was narrowed, the August 22 letter should have reflected the narrowed scope of the request and the changes in fees associated with this. For the narrowed scope the records identified were approximately 350 pages.

...

However the actual records gathered was based on the clarified request, which resulted in only 350 pages. This should have been detailed in the August 22, 2019 response and fee changes should have taken place, which is an error on the part of our public body.

Of the 295 pages not disclosed from the records compiled for the clarified request, pages were removed that were outside of the scope of the request, which in this instance means they either applied to construction of the new hospital or to the completion of infrastructure of the new hospital. Pages were also withheld that were outside of the time frame identified by

the applicant or did not apply to malfunctioning or improperly working equipment.

With respect to the role of management in responding to the ATIPP request, NTHSSA indicated that the final 350 pages of records were reviewed “with the assistance of the NTHSSA CEO to determine what records were considered in scope.” They also argued that management does have a role in the processing of ATIPP requests in that “they may clarify the records being reviewed for nature and context” but that it is the “role of the ATIPP Coordinator “to determine if any of these concerns translates to the requirements to provide protections under the Act”.

NTHSSA indicated that it was not the intention of the ATIPP Coordinator to dissuade the Applicant from seeking a review by the Office of the Information and Privacy Commissioner. Rather, the ATIPP Coordinator believed that, as many of the originally estimated 1100 pages of responsive records became “out of scope” when the Applicant amended his request for information, they would not be part of any review and the Applicant would most likely be dissatisfied with the outcome of a review for that reason.

RELEVANT SECTIONS OF THE ACT

Section 1 of the *Access to Information and Protection of Privacy Act* states that the purpose of the Act is to “make public bodies more accountable to the public”. It gives the public a **right** of access to records held by public bodies subject only to specific and limited exceptions. Section 3 provides that the Act applies to all records in the custody or under the control of a public body, with seven exceptions, none of which are applicable in this case.

Section 6 states that to obtain access to a record, a request must be made in writing. Section 5 provides that:

A person who makes a request under section 6 has a right of access to any record in the custody or under the control of a public body, including a record containing personal information about the applicant.

Section 7 of the Act requires public bodies to “make every reasonable effort to assist an applicant and to respond to an applicant openly, accurately, completely and without delay”.

Finally, section 33 of the Act places the onus of establishing that an Applicant has no right to access a record on the public body.

Reading all of these provisions together, it is clear that access to records is always the rule and openness and accountability the goal.

DISCUSSION

At its core, this review is about whether the public body in this case, NTHSSA, complied with its obligations under Section 7 of the *Access to Information and Protection of Privacy Act* to assist the Applicant and to respond to this access request openly, accurately, completely and without delay.

Amending the Request for Information

I start with consideration of the reason for the amendment to the Applicant’s original request for information. According to the Applicant, he removed reference to “infrastructure” from his request for information “on the advice” of the ATIPP Coordinator.

Part of the obligation of public bodies under section 7 is to assist applicants. This includes contacting the Applicant to ensure that the request is clearly understood. In some cases, as for example where a request is worded extremely broadly, it is appropriate to encourage an applicant to clarify the request to accurately identify the records the Applicant is looking for. In fact, I would consider this initial communication with the applicant to confirm receipt of the request, to ensure that the ATIPP Coordinator's understanding of the request accurately reflects what is being requested, and to clearly identify the kind of records being sought, is a matter of "best practice" in responding to an Access to Information Request. Often applicants have difficulty articulating their requests for any number of reasons, including a lack of familiarity with government jargon that might facilitate identifying the records in a focussed way. In these circumstances, a telephone call or email can help to clarify, saving everyone unnecessary time and effort and ensuring that the applicant does not receive a lot of unwanted records.

While it is important for ATIPP Coordinators to assist applicants by focussing on those records that appear to address the particular issue the applicant is dealing with, it is not appropriate for a public body to attempt to dissuade an applicant from requesting large numbers of records simply because of the work that would be necessary in responding to such a request. Nor is it appropriate to attempt to persuade an applicant to amend a request because the public body is aware that the wider scope of the request may reveal records that would reflect poorly on the public body. The duty to assist is a duty to help the applicant obtain the records they are seeking.

In this case, I asked for and received copies of all correspondence between the Applicant and the ATIPP Coordinator in relation to the request in an attempt to try to understand why the ATIPP Coordinator advised the Applicant to revise his request. It seems, however, that the discussions about this change were all telephone discussions and the only record of these conversations was contained in correspondence from

NTHSSA after the change had been agreed to, confirming the specifics of the revised request. It is, therefore, unclear what the reasons for the advice to change the request were. That said, the revision was really only the removal of the word “infrastructure” from the request, effectively narrowing the scope of the request. From that one can surmise that the Applicant was advised that the scope of the original request was very broad and would result in what the ATIPP Coordinator perceived as an unwieldy number of responsive records.

The Applicant in this case was a member of the press, familiar with the ATIPP process. I am satisfied that in revising his request for information in accordance with the advice given by the ATIPP Coordinator he was satisfied that the amendment would result in a response that was adequate to his purposes. To the extent that the Applicant accepted the proposed revision to his request, I am satisfied that he knew that this would reduce the scope of the request and that the records would not include records with respect to the “infrastructure”.

The “Fees” Letter

The agreement to change the wording of the Request for Information was confirmed on July 29th, as is apparent in email communications between NTHSSA and the Applicant. On August 22nd, nearly a month later, NTHSSA sent a letter to the Applicant for two purposes. The first was to advise the Applicant that there were fees applicable to the request. The second purpose of the letter was to extend the time for its response to the request.

A) Fees

Section 5(3) of the *Access to Information and Protection of Privacy Act* provides that the right of access to a record is subject to the payment of any applicable fee. Section 50 of

the Act deals with fees:

- 50.(1) The head of a public body may require an applicant who makes a request under section 6 to pay the prescribed fees for services provided.
- (2) Where an applicant is required to pay fees for services, the public body shall give the applicant an estimate of the total fee before providing the services.

The letter of August 22nd, therefore met the purpose of providing the Applicant with the notice required by section 50(2). In the letter, NTHSSA not only repeats the original request, but also acknowledges that on July 29th, after discussions with the ATIPP Coordinator, the request had been revised so as to remove the word “infrastructure” from the request. There was also included in this letter the following:

We have currently estimated a total number of 1107 pages of records which pertain to your request; however we anticipate the number of pages to increase. We have uncovered emails, handwritten notes, and records from potential technological devices. Our initial fee estimate in relation to your request is based on the following calculation:....

According to the explanations provided by NTHSSA in this review, however, this statement was untrue at the time it was written - or at least at the time it was sent to the Applicant. It was not an accurate reflection of the number of pages determined to be responsive to the revised request but was, instead, based on the number of pages estimated to be responsive to the original request.

The estimated fee of \$162.00 was based on the erroneous estimate of 1107 pages and an estimated six hours of time to locate and retrieve those 1107 records.

Regulation 11(5) provides that where a fee, estimated in accordance with the fee schedule, results in a fee of less than \$150.00, no fee can be charged. Even if the response did include 1107 pages, therefore, the fee estimate was very close to the cut-off point at which no fee can be charged.

Regulation 13 requires that when a fee estimate is provided, the public body must cease processing the request for information until the Applicant agrees to pay the assessed fee and pays at least 50% of that fee. The Applicant communicated his acceptance and paid the initial deposit of \$86.00 based on the information contained in the letter that there were over 1000 pages of responsive records.

In terms of the requirements of the Act and the Regulations for the imposition of fees, NTHSSA appears to have followed the appropriate procedure.

However, based on the submissions received from the NTHSSA, the letter contained erroneous information about the number of records involved and therefore resulted in an erroneous and inappropriate fee assessment. In explaining the very few number of records that were eventually disclosed, NTHSSA indicated that, in error, the fee estimate was actually based on the estimated number of pages/records responsive to the original request, not the number of pages/records responsive to the revised request. No information was provided about how such an error was made. It is a significant one. Be that as it may, it is to be assumed that a search and retrieval of only a fraction of the number of originally estimated documents would take only a fraction of the time and effort of that process for 1100 pages of records. NTHSSA would have to provide some evidence that the searches would take as much time for retrieving 350 pages of records as it would to retrieve 1100 records, and I see nothing in the materials to support that argument.

Because the Regulations prohibit the charging of fees less than \$150.00, no fee should have been charged to the Applicant in this case.

B. The Extension of Time

In the same letter, NTHSSA gave the Applicant notice that they were extending the time to respond to the request by an additional 45 days pursuant to section 11(1)(b) of the Act. Specifically, the letter contained the following:

Typically, NTHSSA responds to requests for information within 30 days after receiving the request. However, due to the large volume of records involved and the large volume of records that must be searched, we require a 45 day time extension from the date we receive payment in order to process your request.

Section 11(1)(b) states as follows:

- 11(1) The head of a public body may extend the time for responding to a request for a reasonable period where;
- (b) a large number of records is requested or must be searched to identify the requested record and meeting the time limit would unreasonably interfere with the operations of the public body.

Clearly, 350 pages of records does not, and cannot, qualify as a “large number of records”. For that matter, 1100 pages of records is not an inordinately large number of records such that an extension of time would be expected. However, section 11(1)(b) also allows for an extension of time where a large number of records need to be searched to identify responsive records, even if the number of actual responsive

records found is small. For the purposes of this review, the number of records responsive to the revised request was substantially lower than the number estimated for the original request. For the sake of argument, however, I will assume for the purposes of this discussion that the same number of records had to be searched to identify the responsive records to the revised request as NTHSSA estimated it would take to complete the searches for the original request. Because of the fee estimate, we know that NTHSSA anticipated this would take a total of six hours. That six hours was divided among 9 employees, with the estimate that no employee would need more than two hours to locate and retrieve responsive records and most would need less than half an hour. This does not, in my estimation, amount to a commitment of time that would allow for an extension of time pursuant to section 11(1)(b) in the context of a large public body such as NTHSSA. This is particularly so when the second part of that subsection is considered. The extension of time is authorized only where “meeting the time limit would unreasonably interfere with the operations of the public body”. Based on NTHSSA’s time estimate, I am not satisfied that asking any one employee to commit two hours within a 30 day period to conduct necessary searches would unreasonably interfere with the operations of the public body. The extension of time was not justified pursuant to section 11, even under the parameters of the original request.

The Role of Management

The Applicant questioned the role of management - in this case the CEO of NTHSSA and the COO of Stanton Hospital - in responding to an access to information request. It appears, in fact, that both the CEO of NTHSSA and the COO of Stanton Territorial Hospital had a hand in “approving” or “reviewing” the response before it was given to the Applicant. According to submissions received from NTHSSA, these two managers reviewed all of the responsive records “for nature and context and to determine what records were considered in scope of the request”. It is unclear to me why this could not

be done by the ATIPP Coordinator. It seems to me that the difference between infrastructure and equipment should be fairly easily determined.

There has been a fair amount of controversy surrounding the new hospital and problems that have revealed themselves with both the infrastructure and the equipment since it was opened in the spring of 2019. In fact, it has been the subject of comment not only in local media, but also in the Legislative Assembly on more than one occasion. Therefore, the fact that management felt it necessary to have some say over the content of the response to the Applicant is troubling. The fact that the ATIPP Coordinator reported that he was “able to” reduce the number of responsive records from 350 records to 55 further suggests an attempt by the public body to limit the records being provided to the public. While the “head” of the public body (in this case, the CEO of NTHSSA) has ultimate responsibility for responding to ATIPP requests, that responsibility is, for good reason, most often formally delegated to another employee, such as the ATIPP Coordinator. It is this employee who should be making the decisions on the ground about what is a responsive record and what, if any exceptions, might apply.

In this case, NTHSSA says that the CEO and the COO were utilized only to ensure that the records identified were within the scope of the revised request. No context was provided to suggest why this might be necessary in this fairly clear and simple request. There was nothing provided by way of evidence to suggest that there was anything overly technical about the request such that the ATIPP Coordinator needed assistance differentiating records with respect to “infrastructure” and records with respect to “equipment”. Ostensibly the reason for management oversight was to contain the scope of the disclosure. Keeping in mind that the public has a right to access all public records (subject to narrow and specified exceptions) and given that in this case the scope of the request was changed at the behest of the public body (though with the consent of the Applicant) a perception is raised that there was some motivation in the part of the public

body to limit and control the scope of the responsive records. I am not saying that this was the case, only that the way in which NTHSSA handled the request left one wondering if there was something they sought to protect from disclosure for some reason.

While it makes no sense to provide an applicant with information well beyond the subject matter for which records have been requested, there is nothing in the legislation prohibiting a public body from going outside the four corners of a request and providing records that may be somewhat outside the scope of a request. For example, if the Applicant has requested records between December 1st and December 15th with respect to a particular issue, and the ATIPP Coordinator uncovers a record with a December 16th date that appears relevant, there is nothing preventing the public body from disclosing this additional record. Therefore, the reasons given in this case for the CEO's and the COO's participation in dealing with the response to the applicant makes little sense. If it so happened that the Applicant received a record that stepped outside of the four corners of the revised request and ventured into the confines of the original request, there would have been no contravention of the legislation.

While there is a role for the head of a public body in the ATIPP process, unless that individual is taking responsibility for ATIPP responses, that role should be limited so as to avoid the appearance of unwarranted interference with the right of access. To the extent that there is a requirement that in all cases the COO of the region and/or the CEO must "approve" a disclosure, this suggests an intention to control the response provided, particularly where the issue involved is controversial for the public body or the government. This does not integrate well with the spirit or intention of access to information legislation and should be avoided.

Efforts to Dissuade the Applicant

I am troubled by the Applicant's statement that he felt that he was being discouraged from making a request to this office for a review of the response received. For an ATIPP Coordinator to presume how this office might deal with a Request for Information and to voice that opinion to an Applicant is inappropriate. I accept that the ATIPP Coordinator in this case felt that NTHSSA had responded fully and openly to the request for information. I fully accept the *bona fides* of this employee in his belief that a review by this office would not change the response received. The right to review, however, is protected by the legislation and that right should be not only respected, but pointed out to Applicants when they raise concerns.

The Responsive Records

For the purpose of this review, I am prepared to accept NTHSSA's explanation for the discrepancy between the number of records first identified (1107) and the number eventually disclosed. I put the confusion down to the change in the incumbent in the ATIPP Coordinator's position during the process of responding to the Applicant's request and perhaps a lack of understanding on the part of the new Coordinator put in the position of dealing with the "meat and potatoes" of the request. That said, as demonstrated clearly in this review, his errors created a huge amount of confusion, which in turn translated into skepticism that the Applicant had received a full response to his access to information request.

In terms of the 350 records which were, in the end, identified as responsive to the Applicant's request, there remains confusion because the Applicant was provided with only 55 pages. If there are 350 pages that are "responsive" they must all be disclosed, though with exceptions applied. For this reason, I have reviewed all 350 pages and make the following recommendations:

Pages 1 and 2 - The last word of page 1 and the first word of page 2 have been redacted. These words appear to be the name of a company contracted to the NTHSSA. There is no exception that applies and I **recommend** these words be disclosed.

Page 2 - I **recommend** disclosure of the name of the contracting company throughout. Further, to the extent that names which have been redacted in several places are the names of a employees of either NTHSSA or a contracting company, there is no exception that would apply to authorize withholding the name. Section 23(4)(e) provides that a disclosure of personal information is not an unreasonable invasion of privacy where the personal information relates to the individual's "employment responsibilities" as a GNWT employee. The term "employee" as defined in the Act includes a person who performs a service under contract. I therefore **recommend** that this name also be disclosed.

Page 3 - This page is blank but appears to have been withheld.

Page 6 - There is information at the end of this page which has been redacted. Again, to the extent that the references are to an employee of a contractor, there is nothing apparent that would prevent the disclosure of this information. I **recommend** that it be disclosed. The same email appears again on pages 15, 27, 38

Pages 8 through 12 - These records have been completely withheld. Page 8 appears to be a signature. It is unreadable and it stands on its own. I can think of no exception which would allow it to be withheld and I **recommend** it be disclosed. Pages 9 through 12 include an email exchange about a system in the hospital. No explanation was provided in relation to why these pages were withheld. The information being discussed may relate to infrastructure but it could be that this is "equipment". As noted above, however, there is nothing in the Act that prevents the disclosure of information that is

outside the four corners of a request. In the circumstances of this case (wherein NTHSSA invited the Applicant to remove “infrastructure” from his request) and in the absence of any explanation for not disclosing these pages, and in the spirit of openness, I **recommend** that these pages be disclosed.

Pages 17 to 24 - This appears to be a copy of the same emails contained in pages 9 through 12 with some additional emails included. The same **recommendation** applies. I note, however, that a number of images seem to be missing from the pages provided to this office and these pictures should be included in the response.

Page 25 - This page has been altered so as to delete the email on the top half of the page as if it did not exist. This should never be done in responding to an access request. As I have said many times, a record is a record and if part of it is responsive, the entire record is responsive. Unless there is something in the document that meets the criteria for an exception under sections 13 to 25 of the Act, the entire record must be disclosed. It is completely inappropriate to edit documents so as to give the appearance that part of it is a “stand alone” record. I **recommend** that this page be disclosed in full.

Pages 28 through 35 - This seems to be a repeat of the email chain that appears on pages 17 to 24 and should be treated accordingly.

Page 36 - This page is the same as the page discussed at page 25 above but in this iteration, the entire page has been disclosed.

Page 39 - The information redacted from this page is the name of a contracted company. There is nothing in this information that would, in my opinion, meet the criteria for an exception to disclosure under the Act. I **recommend** the page be disclosed without edits. This includes the business email addresses for employees of contracted companies.

Pages 40 and 41 - None of the information withheld from this page would, in my estimation, meet the criteria for any exception to disclosure under the Act. I **recommend** it be disclosed without edits.

Page 42 - The information redacted from this page is, once again, the name of a contracted company and there is nothing in the redacted information that meets the criteria for an exception to disclosure. I **recommend** that this page be disclosed without edits.

Pages 43 and 44 - The information redacted from these pages are the business contact information and names of employees of third party contractors involved in the direct provision of services to the NTHSSA. As such, the disclosure would not be an unreasonable invasion of privacy (section 23(4)(e)) and I **recommend** that these pages be disclosed without edits.

Pages 48 to 51 - These pages appear to be copies of handwritten journal entries of an employee. There does not appear to be anything in this record that would attract the protection of any exception under the Act except, perhaps, some information about individual employees on page 51. I **recommend** that these pages be disclosed with the exception of the names contained after the date on page 51.

Pages 52 to 96 - With the possible exception of some contact information (i.e. telephone numbers) for which it is impossible to determine whether it is a business number or a personal number, I can see nothing in these pages that would meet the criteria for an exception to disclosure under the Act. I **recommend** that these pages be disclosed in full, with the exception of those telephone numbers that appear in the body of an email and for which it is not possible to determine whether it is a personal or business number.

Pages 97 and 98 - A name has been redacted from the body of an email on page 97. If this is the name of an employee of NTHSSA or of an employee of a contractor, this name should be disclosed. The balance of these two pages are emails which all appear in pages 52 to 96 and should be treated accordingly.

Pages 99 - 106 - There is nothing in these pages which would appear to meet the conditions for an exception under the Act. I **recommend** these pages be disclosed.

Page 109 - I **recommend** that the name of the contractor on this page that has been withheld be disclosed.

Pages 115 - I **recommend** that the name of the contractors on this page that have been withheld be disclosed.

Page 118 - I agree that disclosure of the redacted information on this page might result in an unreasonable invasion of a third party's privacy and has been properly withheld.

Pages 120 – 126 - None of the information withheld from these pages would, in my estimation, meet the criteria for any exception to disclosure under the Act. I **recommend** they be disclosed without edits.

Page 127 - For the record, this page is blank

Pages 128 - 132 - With the possible exception of some contact information (i.e. telephone numbers) for which it is impossible to determine whether it is a business number or a personal number, I can see nothing in these pages that would meet the criteria for an exception to disclosure under the Act. I **recommend** that these pages be disclosed in full, with the exception of those telephone numbers that appear in the body of an email and for which it is not possible to determine whether it is a personal or

business number. I note that these pages were all provided in font so small it is impossible to read them without magnifying them to 400%. When disclosed to the Applicant they should be reproduced in a readable font size.

Pages 133- 138 - None of the information withheld from these pages would, in my estimation, meet the criteria for any exception to disclosure under the Act. I **recommend** they be disclosed without edits.

Pages 139 - 143 - Again, these five pages are in a font unreadable without major magnification and I recommend they be reproduced in a readable font size before disclosure. This may be a second copy of the email chain contained in pages 128-132. Regardless, I am not convinced that there is any information included in these pages that meet the criteria for an exception to disclosure and I recommend they be disclosed with the exception of any telephone numbers for which it is impossible to determine whether the number is personal or business related.

Pages 144 - 182 - None of the information withheld from these pages would, in my estimation, meet the criteria for any exception to disclosure under the Act. I **recommend** they be disclosed without edits.

Pages 183 to 188 - With the exception of page 187, these pages, once again, are presented in an unreadable font. These pages seem to be a duplicate of the email chain represented in pages 139-143 and should be treated accordingly.

Pages 189 to 191 - None of the information withheld from these pages would, in my estimation, meet the criteria for any exception to disclosure under the Act. I **recommend** they be disclosed without edits.

Pages 192 to 198 - These pages, once again, have been provided in unreadable font size. They are, largely, the parts of the same email chain as discussed at pages 139 to

143 and should be treated accordingly. There is nothing in the “new” emails in this chain which would, in my opinion, meet the criteria for an exception under any section of the Act. I **recommend**, therefore, that the new parts of the chain be disclosed along with the emails already discussed above.

Pages 199 to 215 - None of the information withheld from these pages would, in my estimation, meet the criteria for any exception to disclosure under the Act. I **recommend** they be disclosed without edits.

Page 216 - There is some information on this page in a chart under the column “Super Master Code” that may meet the criteria for an exception to disclosure pursuant to section 20(1)(k). I **recommend** that this page be disclosed but for the information in that column and that the public body review the information in that column to determine whether the section applies and, if so, that they exercise their discretion with respect to same.

Page 217 to 266 - None of the information withheld from these pages would, in my estimation, meet the criteria for any exception to disclosure under the Act. I **recommend** they be disclosed without edits.

Pages 267 to 271 - These pages, once again, have been provided in unreadable font size and need to be reconfigured for disclosure. There is nothing in these pages that would qualify any of them for an exception from disclosure and I **recommend** they be disclosed.

Pages 272 to 321 - None of the information withheld from these pages would, in my estimation, meet the criteria for any exception to disclosure under the Act. I **recommend** they be disclosed without edits.

Page 324 - The information redacted from this page consists of the names of third party contractors and their employees involved in the direct provision of services to the NTHSSA. As such, the disclosure would not be an unreasonable invasion of privacy (section 23(4)(e)) and I **recommend** that this page be disclosed without edits.

Pages 325 to 331 - None of the information withheld from these pages would, in my estimation, meet the criteria for any exception to disclosure under the Act. I **recommend** they be disclosed without edits.

Page 332 to 333 - The name and email address of an employee of a third party contractor has been withheld. As per the discussion above, I **recommend** that this information be disclosed. The other redaction is a name (in the "Cc" field). To the extent that this is the name of an employee of the GNWT or an employee of a contractor I **recommend** that this name also be disclosed. On page 333 an entire email, including the header, has been withheld, though there is no section of the Act referred to to justify the redaction. I **recommend** this email be disclosed in full.

Pages 334 and 335 - Information redacted from this page includes the names of third party contractors involved in the direct provision of services to the NTHSSA. As such, the disclosure would not be an unreasonable invasion of privacy (section 23(4)(e)) and I **recommend** that this information be disclosed. Again several emails on these pages have been completely redacted with no reference to an applicable section of the Act. There is nothing in these emails that would qualify them for an exception under the legislation and I **recommend** these emails be disclosed.

Page 336 - The information redacted from this page consists of the names of third party contractors and their employees involved in the direct provision of services to the NTHSSA. As such, the disclosure would not be an unreasonable invasion of privacy (section 23(4)(e)) and I **recommend** that this page be disclosed without edits.

Page 338 - The information redacted from this page is name of a third party contractor involved in the direct provision of services to the NTHSSA. As such, the disclosure would not be an unreasonable invasion of privacy (section 23(4)(e)) and I **recommend** that this page be disclosed without edits.

Page 339 - Almost all of the emails on this page have, again, been completely redacted with no reference to an applicable section of the Act. There is nothing in these emails that would qualify them for an exception under the legislation and I **recommend** these emails be disclosed.

Pages 340 to 342 - None of the information withheld from these pages would, in my estimation, meet the criteria for any exception to disclosure under the Act. I **recommend** they be disclosed without edits.

Page 345 - The information redacted from this page consists of the names of employees of third party contractors involved in the direct provision of services to the NTHSSA. As such, the disclosure would not be an unreasonable invasion of privacy (section 23(4)(e)) and I **recommend** that this page be disclosed without edits.

Page 346 - A name has been redacted from this page. It is unclear the role of the individual whose name has been withheld. If it is the name of an employee or an employee of a third party contractor, I **recommend** it be disclosed.

Pages 347 and 348 - None of the information in these pages would, in my estimation, meet the criteria for any exception to disclosure under the Act. I **recommend** they be disclosed without edits.

Page 350 - None of the information withheld from this page would, in my estimation, meet the criteria for any exception to disclosure under the Act. I **recommend** it be

disclosed without edits.

RECOMMENDATIONS

In addition to the specific recommendations made with respect to the records themselves, I make the following additional recommendations:

1. If the fees collected by NTHSSA have not yet been refunded, I recommend the refund of the full amount of fees paid by the Applicant.
2. To the extent that the ATIPP/HIA Coordinator has not had training in responding to access to information requests under the ATIPP Act, I recommend that this training be provided immediately so that the errors that plagued this review are not repeated.

Elaine Keenan Bengts
Information and Privacy Commissioner