

# NORTHWEST TERRITORIES INFORMATION AND PRIVACY COMMISSIONER

Review Recommendation 00-16.1  
Review File: PC9346

## BACKGROUND

On November 3<sup>rd</sup>, 1999, the Applicant applied under the *Access to Information and Privacy Act* (the "Act") to the Financial Management Board to obtain copies of the reports prepared by the Deputy Ministers on restraint activities by each government department which were provided to the Financial Management Board on or after August 1<sup>st</sup>, 1999.

On November 22<sup>nd</sup>, 1999, the Secretary of the Financial Management Board replied to the Applicant indicating that none of the information requested would be disclosed as it was all exempted from disclosure pursuant to Section 13 (1)(a) of the *Access to Information and Protection of Privacy Act*.

By letter dated November 25<sup>th</sup>, 1999 the Applicant requested that I review the Public Body's decision to refuse access to the requested information. Submissions were requested and received from both parties. I asked for, and was provide with, a full set of the documents subject to the Request for Information so that I could assess the contents of the documents in the context of the exemption claimed by reason of section 13 (1)(a), including those documents which were subject to claimed exemptions.

On May 22<sup>nd</sup>, 2000, I issued recommendations arising out of my review. One of those recommendations was that the Financial Management Board provide me with more background information to support their contention that the information in question was a cabinet confidence. Although I requested that that information was to be provided to me within two weeks of the date of my recommendations, it was not received until more than a month later.

The Applicant was invited to provide further comments on the submissions received from FMB but he declined to do so.

## DISCUSSION

The questions which I asked the Financial Management Board to address were those relating to the context in which the documents requested came to be in the hands of FMB. I asked the Board to tell me why they requested the information in question from the various departments and what the information was going to be used for. I asked whether the information was provided to them merely for informational purposes or for the purpose of making decisions as to cost cutting measures. I asked them to explain to me the role of the Financial Management Board in the budgeting of individual government departments. I asked whether this Board had authority to dictate cost cutting measures, even in the face of an approved budget. I asked whether the information related to cost cutting measures already made or measures to be taken.

In reply, the Department merely referred me to various parts of the Financial Administration Act and suggested that I thoroughly review the provisions of that Act. Very little information was given about the reason the information was requested or the intended use of that material.

Despite the lack of explanation from Financial Management Board, I am prepared to accept that the assumptions made in my preliminary recommendations were accurate and that, to the extent that the information in the documents in question contain advice and recommendations, they constitute "cabinet confidences" as contemplated by section 13(1) of the *Access to Information and Protection of Privacy Act*.

That having been said, nothing in the further material provided by FMB changes my opinion or my recommendation with respect to the severance and release of that

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information that constitutes merely background information and facts. Those portions of the material are outlined in detail in my preliminary recommendations and my recommendation with respect to their release remains unchanged.

Elaine Keenan Bengts

Northwest Territories  
Information and Privacy Commissioner