

ACCESSING GOVERNMENT INFORMATION IN

Saskatchewan

RESOURCES

The Freedom of Information and Protection of Privacy Act

<http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/F22-01.pdf>

Local Authority Freedom of Information and Protection of Privacy Act

<http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/L27-1.pdf>

Government guides: Accessing Privacy – Requesting Information

<http://www.saskjustice.gov.sk.ca/FOI/requestinfo.shtml>

Government guides: How to make an Access Request

<http://www.oipc.sk.ca/Web%20Site%20Documents/Public%20steps%20to%20access%20handout.pdf>

Office of the Information and Privacy Commissioner of Saskatchewan

<http://www.oipc.sk.ca/>

Disclaimer:

We have attempted to ensure that the information provided in this Manual is reasonably accurate and complete as of December 2005. However, we cannot guarantee complete accuracy or comprehensiveness; you should consult the relevant legislation and authorities if you seek fully accurate, complete, and up-to-date information.

Moreover, this Manual provides information of a general nature and does not constitute legal advice. Should you need legal advice, seek a lawyer.

Please report any errors or omissions in this Manual to cippic@uottawa.ca

WHO CAN REQUEST GOVERNMENT INFORMATION?

Anyone can request government information.

WHAT INFORMATION CAN I ACCESS?

You have the right to access any record in the possession or under the control of a government institution or local authority, subject to certain exceptions described below. Government institutions and local authorities include the Saskatchewan government, municipalities, crown corporations, educational bodies and health care bodies.

WHAT ARE THE EXCEPTIONS TO MY RIGHT OF ACCESS?

There are a number of circumstances in which you may be denied access to information, many of which are described below. Unless otherwise noted, the following exceptions (called “exemptions” in Saskatchewan) apply to both government institutions and local authorities.

Publicly available information

You may be denied access to information that is available to the public. This includes information for which you must pay a fee and information that will be made available to the public within 90 days of the date when the request is received.

Frivolous or vexatious request

Your access request may be refused if it is frivolous, vexatious or made in bad faith.

Another Act prevails

If the information you want is governed by an Act that specifies that the Saskatchewan *Freedom of Information and Protection of Privacy Act* does not apply, you cannot access it through a freedom of information request.

Law enforcement and legal proceedings

Your access request may be denied if disclosure could be harmful to law enforcement. This includes information that would: reveal investigative techniques or details of an investigation; reveal confidential sources of information; endanger anyone; deny someone a fair trial or otherwise harm legal proceedings; or facilitate the escape of an inmate. Furthermore, the government institution or local authority may refuse to confirm or deny the existence of such information.

However, you are entitled to access information that is part of a report of a routine inspection conducted by an agency authorized to enforce laws or that consists of statistics related to the success rate of law enforcement.

Privileged information

Your request for information may be denied if the information is protected by legal privilege such as solicitor-client privilege.

Advice

Unless the institution consents, or unless the information is more than 25 years old, you cannot access records that could reveal advice to the government. The term “advice” is used broadly and includes opinions, recommendations, proposals, analyses, policy options, consultations, deliberations, material relating to negotiations on behalf of the Government of Saskatchewan, unimplemented administrative plans, draft law at the executive level, agendas or minutes of meetings, or any information that could likely result in disclosure of a pending policy or budgetary decision.

A government institution must, however, give access to:

- statistical surveys;
- some environmental test results;
- the results of some scientific or technical research; and
- reasons for using discretionary power.

Cabinet confidences

Unless Cabinet consents, or unless the information is more than 25 years old, you cannot access information revealing the substance of deliberations of the Cabinet or of Cabinet committees. This includes information contained in agendas, minutes, policy analyses, proposals, briefs, and draft legislation or regulations.

Local authority confidences

Your access request may be denied if disclosure could reveal a draft regulation or bylaw or the substance of a confidential meeting. If, however, the information was shared at a public meeting or it is more than 25 years old, you may access it.

Relations with other governments

Unless the affected government institution consents, you cannot access information that

could harm relations between Saskatchewan and other governments, including local, Canadian and foreign governments.

Information provided in confidence by other governments

You cannot access information that another government gave to the Government of Saskatchewan in confidence, either explicitly or implicitly, unless that government consents to the disclosure or makes the information public.

Economic and other interests of a government institution

Your access to information request may be refused if disclosure could harm the economic interests of a government institution or local authority. Information under this heading includes: government trade secrets; research where priority of publication would be prejudiced; information to be used in negotiations; policy decisions prematurely disclosed; and other information that could prejudice the economic interest, competitive position or financial interests of the government.

However, access must generally be granted to results of product or environmental tests unless the purpose of the test was to develop testing methods or to determine whether a product should be purchased.

Testing procedures, tests and audits

You may be denied access to information related to testing or auditing procedures, or to details of specific future tests or audits, if disclosure could prejudice the tests or audits.

Business interests of third parties

You cannot access a third party's trade secrets or other confidential or sensitive information if disclosure could harm the business interests of that third party. This includes tax return information. You can, however, get access when the third party consents to the disclosure or when disclosure is in the public interest.

Third party privacy

Your access request will generally be denied if disclosure would invade a third party's privacy. Furthermore, a government institution may refuse to confirm or deny the existence of information if to do so could invade a third party's privacy.

Disclosure of the following will be considered an invasion of a third party's privacy:

- personal health information;
- address, telephone number, fingerprints and, in some cases, name;
- information that is part of a law enforcement record;
- financial information related to a third party's taxation, income, financial situation or receipt of social assistance;
- a third party's personal recommendations, character references or personnel evaluations;
- confidential correspondence;
- a third party's employment, educational or criminal history; and
- information revealing the race, ethnic origin, religious or political beliefs, or sexual orientation of a third party.

There are, however, circumstances in which disclosure will be permitted. These include:

- when the relevant third party consents to disclosure;
- when there are compelling circumstances affecting the applicant's health or safety;
- for the purpose for which the information was obtained;
- when disclosure is for research purposes and not contrary to the public interest;
- to comply with a subpoena or court order or to collect a debt owed to the government; and
- when disclosure is in the public interest.

Archived records acquired from private parties

You cannot access archived records that were acquired from private parties – that is, from people or entities other than government institutions or local authorities. If the information you want was placed in an archives by a private individual or organization, contact that party directly and ask permission to access the information.

Individual or public safety

Your access request may be denied if disclosure could threaten individual or public safety.

Exceptions related to personal information

For additional exceptions more relevant to personal information, see *Accessing Personal Information in Saskatchewan*.

HOW DO I MAKE A REQUEST?

1. Check whether the information is publicly available

Some personal information can be found in public records. Search government public records holdings before making a formal access request.

2. Contact government institutions

Call the government institution or local authority and ask if it is willing to provide access to the information you want. Such informal methods can be effective. Note, however, that informal access-to-information requests do not trigger time limits for responding to you, nor do they trigger certain rights, such as the right to request a review by the Information and Privacy Commissioner.

Contact information for the various Freedom of Information Coordinators can be found in the Saskatchewan Access Directory, which is available at local libraries and provincial government offices in Saskatchewan. There is also a Freedom of Information hotline at 1-306-787-5473.

3. Identify the appropriate government institution

a) Determine whether the institution is subject to access to information law

A list of all institutions subject to the Freedom of Information law can be found in Schedule I of the Regulations:

<http://www.qp.gov.sk.ca/documents/English/Regulations/Regulations/F22-01R1.pdf>

Similarly, a list of local authorities can be found in section 2(f) of the *Local Authority Freedom of information and Protection of Privacy Act (LAFIPPA)*:

<http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/L27-1.pdf>

as well as in the appendix to the regulations under the *LAFIPPA*:

<http://www.qp.gov.sk.ca/documents/English/Regulations/Regulations/L27-1R1.pdf>

b) Determine whether the information is in the custody or control of the government institution or local authority

Freedom of Information laws only apply to records in the custody or control of a government institution or local authority. If a record is destroyed, it is no longer in the custody or control of a government institution or local authority, but it is an offence to wilfully destroy records in order to evade an access request.

4. Frame your request carefully

a) Use government directories to identify likely sources of information

The government of Saskatchewan publishes the Saskatchewan Access Directory and it is

available at local libraries and government offices in Saskatchewan. In addition to contact information for Freedom of Information Coordinators, the Directory describes how government institutions are organized, and lists classes of records.

For local authorities, sources of information and a list of local authorities, see s. 2(f) of the LAFIPPA: <http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/L27-1.pdf>.

b) Request "records"

Request access to records, not to information, because "record" has a specific and broad definition: "a record of information in any form and includes information that is written, photographed, recorded or stored in any manner, but does not include computer programs or other mechanisms that produce records."

c) Request indexes, catalogues, and other records-management aids

If you are seeking information that spans a broad area or could involve many records, you should first consider requesting indexes, file lists, file plans, and other records-management aids. These records of records can help you narrow your request and choose only the most relevant materials. This process can also shed light on other issues you may not have been aware of. The only drawback is that this is a two step request process: once you decide which records you would like, you must file another request to which the government institution will have 30 days to respond.

d) Be specific

Unless you absolutely need it, try not to request everything available on a subject so as to ensure a faster and less costly response. In addition, the more specific your request is, the less likely the government institution will request a time limit extension.

5. If you need help

If you need help, ask the relevant government institution or local authority. It is required to help you with your request.

DO I HAVE TO USE A FORM?

Technically, yes – but the government will usually respond to requests even if they are not on the prescribed form, and the Information and Privacy Commissioner generally requires them to do so. Forms can be found at: <http://www.oipc.sk.ca/forms.htm>.

WHAT WILL IT COST?

There is no application fee for requesting information from the provincial government, but there is a \$20 fee for requesting information from local authorities. In addition, the following fees will be charged where applicable:

- \$15 per half hour of time spent searching for the record. The first two hours are free; and
- 25 cents per page for photocopying and printing.

For additional fees for photographic reproductions, audio cassettes, microfiche printouts, etc. see:

<http://www.qp.gov.sk.ca/documents/English/Regulations/Regulations/F22-01R1.pdf>.

If the total cost of access is more than \$50, an estimate of the fee will be sent to you before any work is done on your behalf. If you agree to the fee, you must respond and include a deposit if one was requested. If, in the end, the actual cost is less than the estimate, you only pay the actual cost, but you will not be charged more than the estimate if the actual cost is higher.

Fee estimates must be reasonable: see <http://www.oipc.sk.ca/reviews.htm>.

You may ask to have some or all of the fees waived. This request may be granted if:

- the total fee is less than \$10;
- you can't afford the fee, or it would otherwise be fair to waive the fee;
- you are requesting access to your own personal information and it would be reasonable and fair to waive the fee; or
- disclosing the information is in the public interest.

The government institution must reply to your fee-waiver request in writing. If you are not satisfied with the response, you may complain to the Information and Privacy Commissioner.

HOW LONG WILL IT TAKE?

The government institution or local authority must make every reasonable effort to respond to your request within 30 days of receiving it. If your request is transferred to another government institution, the transfer must be done within 15 days and the new body must respond to you within 30 days of receiving your request.

A transfer to another body is only allowed when:

- the record is in the custody or under the control of the government institution to which your request is being transferred; or
- the record originated with, or was first obtained by, the government institution to which your request is being transferred.

A government institution can extend the time limit for responses by up to 30 days when:

- you have requested a large number of records and responding within 30 days would unreasonably interfere with the operations of the government institution;
- a large number of records will need to be searched and responding within 30 days would unreasonably interfere with the operations of the government institution;

- or
- the government institution needs time to consult with, or give notice to, a third party before deciding whether to grant access to a record.

Failure to respond to a request within 30 days is considered a denial of access. You can complain to the Privacy Commissioner about both denial of access and failure to respond on time. For more information, see *Appealing Access to Information Decisions in Saskatchewan*.

WHAT ARE MY OPTIONS REGARDING FORMAT?

Copies v. originals

You may have copies sent to you or you may view the originals. A government institution may impose one format (copy or original) depending on considerations of length and the nature of the record.

Language

In Saskatchewan, you do not have the option of requesting that information be provided in a language other than English.

Alternative formats

A government institution is not required to provide records in alternative formats for the hearing or seeing impaired. It will nevertheless often try to accommodate such requests. See "Electronic formats" below.

Electronic formats

Government institutions will provide direct access to, or copies of: "microfilm, film, sound recording, machine-readable record or other record of information stored by electronic means."

WHAT CAN I DO IF MY REQUEST FOR ACCESS IS DENIED?

If you are not satisfied with a government institution's response to your access request, you have the right to appeal its decision to the Office of the Information and Privacy Commissioner. For more information, see *Appealing Access to Information Decisions in Saskatchewan*.