



Information and Privacy  
Commissioner/Ontario  
Commissaire à l'information  
et à la protection de la vie privée/Ontario

## **ORDER P-662**

**Appeals P-9300362 and P-9300363**

**Ministry of the Solicitor General and Correctional Services**



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## ORDER

The Ministry of the Solicitor General and Correctional Services (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for information relating to two job competitions. The Ministry treated this as two requests (one for each competition) and issued two decision letters. The Ministry granted partial access to the records it identified as responsive, but denied access to those portions of the records which would reveal the questions and ideal answers used in the competitions, relying on the exemption in section 18(1)(a) of the Act.

The requester appealed this denial of access. Mediation was not possible, and notice that an inquiry was being conducted to review the Ministry's decisions in both of these requests was sent to the appellant and the Ministry. Representations were received from the Ministry only.

The records at issue consist of the portions of the interview sheets used in the two competitions which would reveal questions and ideal answers in both the oral and written parts of the competition process. The sole issue in this appeal is whether these parts of the records are exempt from disclosure under section 18(1)(a).

In order to qualify for exemption under section 18(1)(a), the Ministry must establish that the information:

1. is a trade secret, or financial, commercial, scientific or technical information; **and**
2. belongs to the Government of Ontario or an institution; **and**
3. has monetary value or potential monetary value.

[Order 87]

With regard to part one of this test, the Ministry's decision letters both state that the exempted parts of the records consist of commercial and technical information.

In Order P-493, Inquiry Officer Anita Fineberg made the following comments about the meaning of "commercial information" as used in section 17 of the Act:

In my view, commercial information is information which relates solely to the buying, selling or exchange of merchandise or services. The term "commercial" information can apply to both profit-making enterprises and non-profit organizations, and has equal application to both large and small enterprises.

I agree with these comments. In my view, they are equally applicable to the term "commercial information" in section 18(1)(a) and I adopt them for the purposes of this appeal. The Ministry did not make any representations to support the statement in its decision letter that the records

contain commercial information. Since interview questions and ideal answers are not related to the buying, selling or exchange of merchandise or services, I find that they do not fit within the meaning of commercial information in section 18(1)(a).

In its representations, the Ministry submits that:

... the questions and suggested answers are technical information relating to a specific position with the Ministry and provide details of the operation of a correctional facility and may prescribe security measures to be followed in given situations.

The meaning of the term "technical information" as used in section 17 of the Act was considered by Assistant Commissioner Irwin Glasberg in Order P-454, as follows:

In my view, technical information is information belonging to an organized field of knowledge which would fall under the general categories of applied sciences or mechanical arts. Examples of these fields would include architecture, engineering or electronics. While, admittedly, it is difficult to define technical information in a precise fashion, it will usually involve information prepared by a professional in the field and describe the construction, operation or maintenance of a structure, process, equipment or thing. Finally, technical information must be given a meaning separate from scientific information which also appears in section 17(1)(a) of the Act.

I agree with these comments. In my view, they are equally applicable to the term "technical information" in section 18(1)(a) and I adopt them for the purposes of this appeal. Since the questions and ideal answers used in these two competitions are not related to the applied sciences or mechanical arts, I find that they do not fit within the meaning of technical information in section 18(1)(a).

I have not been provided with any evidence to suggest that the information withheld from disclosure falls under any of the other categories enumerated under section 18(1)(a), and accordingly, the first part of the test has not been met. Therefore the portions of the records which are at issue in this appeal are not exempt under section 18(1)(a). As they do not contain any information which would attract the application of a mandatory exemption, they should be disclosed.

## **ORDER:**

1. I order the Ministry to disclose the parts of the records containing the questions and ideal answers used in the two job competitions mentioned in the request, within fifteen (15) days after the date of this order.
2. In order to verify compliance with this order, I order the Ministry to provide me with a copy of the records disclosed pursuant to Provision 1, **only** upon request.

Original signed by: \_\_\_\_\_  
John Higgins  
Inquiry Officer

April 22, 1994