



**Information and Privacy
Commissioner/Ontario**

**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER P-711

Appeal P_9400073

Ministry of Health



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NATURE OF THE APPEAL:

This is an appeal under the Freedom of Information and Protection of Privacy Act (the Act). The appellant (a representative of the Canadian Union of Public Employees) has requested copies of records from the Ministry of Health (the Ministry) relating to the budget and operating costs of a named ambulance service (the Service).

The following record is at issue in this appeal: the severed portions of a seven-page document entitled "Emergency Health Services Allocation Detail Report". The Ministry disclosed the figures which represent the net operating costs, statistical information relating to the number of bases, vehicles and total kilometres projected, employee status and normal weekly staffing hours. The information which has been withheld consists of the individual figures for each section set out in the report as well as the totals for each section.

The Ministry relies on the following exemption in denying access to this information:

- third party information - section 17

A notice of inquiry was provided to the appellant, the Ministry and the Service. Representations were received from the Ministry and the Service.

DISCUSSION:

THIRD PARTY INFORMATION

The Ministry submits that disclosure of the information contained in the record could reasonably be expected to result in one of the harms set out in sections 17(1)(a) and (c).

For a record to qualify for exemption under section 17(1)(a), (b) or (c) the institution and/or the affected party must satisfy each part of the following three-part test:

1. the record must reveal information that is a trade secret or scientific, technical, commercial, financial or labour relations information; **and**
2. the information must have been supplied to the institution in confidence, either implicitly or explicitly; **and**
3. the prospect of disclosure of the record must give rise to a reasonable expectation that one of the harms specified in (a), (b) or (c) of subsection 17(1) will occur.

The appellant indicated, in his letter of appeal, that as a totally government funded organization, the Service stands to lose nothing as a result of disclosure of the line-for-line budget figures. In addition, the appellant indicates that he is not seeking upcoming budget information, but rather information relating to the current year.

In its representations, the Ministry provides background information relating to the regulation and funding of the ambulance service industry.

Prior to the enactment of the Ambulance Act (the AA) and Regulations, ambulance service in Ontario was unregulated with respect to operational and patient care standards. The AA provides a complete scheme for the licensing and regulation of the ambulance service industry. In conjunction with the regulation of ambulance services, the Ministry provides funding for approved operational expenses. In addition to funding ambulance service operations, the Ministry enters into agreements to financially compensate owners/operators through a Management Compensation Plan (MCP). This compensation is based on a sliding scale and is related to patient call volumes. The amount of MCP provided to owners/operators by the Ministry is not negotiable, and is based on figures provided for the previous year. This amount essentially represents the Service's profits.

The figures set out in the budget reflect both the allocated funding and the compensation received through the MCP. Once funding is approved, the Ministry has no jurisdiction over how funds are to be spent. If costs exceed the amount funded to the Service, the owner/operator would be required to draw on the MCP to cover the excess, thereby reducing the Service's profits.

As I indicated above, the record at issue contains budget information of the Service, which has been provided by the Service for the purpose of obtaining Ministry funding and MCP. The document consists of 11 sections, including Administration salaries and wages, services and rentals, statistics and costs summary. The severed portion of the record contains dollar figures for each item under the 11 sections. The severed portion of Section B contains statistical information which represents the call volume figures. In my view, this information qualifies as financial and commercial information and, therefore, part one of the test has been met.

With respect to part two of the test, I am satisfied that, in the circumstances of this appeal, the information contained in the record would reveal information which was supplied to the Ministry by the Service, implicitly in confidence.

With respect to part three of the test, the Ministry submits that disclosure of the details of the budget would provide sufficient information to determine the amount of MCP provided to the Service. The Ministry and Service both provide evidence which demonstrates how disclosure of this information could adversely affect the Service's ability to effectively conduct union/management negotiations. I am satisfied that disclosure of budget information would adversely affect the Service's ability to negotiate to its advantage. In my view, disclosure of this information could reasonably be expected to result in one of the harms set out in section 17(1) of the Act.

ORDER:

I uphold the Ministry's decision.

Original signed by: _____
Laurel Cropley

June 23, 1994

Inquiry Officer