



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

## **ORDER P-838**

Appeal P-9400432

Ministry of Citizenship



80 Bloor Street West,  
Suite 1700,  
Toronto, Ontario  
M5S 2V1

80, rue Bloor ouest  
Bureau 1700  
Toronto (Ontario)  
M5S 2V1

416-326-3333  
1-800-387-0073  
Fax/Télé: 416-325-9195  
TTY: 416-325-7539  
<http://www.ipc.on.ca>

## **NATURE OF THE APPEAL:**

This is an appeal under the Freedom of Information and Protection of Privacy Act (the Act). The requester asked the Ministry of Citizenship (the Ministry) for access to a list of all Franco-Ontarian organizations and institutions which have in the past two years applied for grants to the Ontario Anti-Racism Secretariat, along with the contents of the funding proposals and the amounts granted.

The Ministry identified 17 records which were responsive to the request and decided to deny access to 11 of them, in whole or in part, based on the following exemptions contained in the Act:

- third party information - section 17(1)
- invasion of privacy - section 21(1).

The requester appealed this decision to the Commissioner's office.

During the mediation stage of the appeal, the appellant indicated that she had no interest in obtaining access to the personal information of other individuals which may be contained in the records. Accordingly, this information is no longer at issue in this appeal.

A Notice of Inquiry was provided to the appellant, the Ministry and two organizations which had applied for grants. Representations were received from all of the parties. In its submissions, one organization consented to the release of four of the records, numbered A2, A6A, A6B and A6E. The Ministry should, therefore, disclose these documents to the appellant.

A general description of the six records which remain at issue in this appeal is contained in Appendix "A" which is attached to this order. I have retained the document numbering scheme used by the Ministry.

## **DISCUSSION:**

### **INVASION OF PRIVACY**

As indicated previously, the appellant does not wish to have access to any personal information contained in the records which relates to other individuals. This information (which I have highlighted in yellow on the copy of the records to be provided to the Ministry's Freedom of Information and Privacy Co-ordinator) appears on pages 1 and 2 of Record A3, pages 1 and 2 of Record B2, page 5 of Record B3 and Record B6. The excerpts in question must not be released to the appellant.

### **THIRD PARTY INFORMATION**

The Ministry and the organizations claim that sections 17(1)(a), (b) and (c) of the Act apply to each of the six records at issue. For a document to qualify for exemption under this provision, the Ministry and/or the organization 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 sections 17(1)(a), (b) or (c) will occur.

### **Part One of the Test**

The records at issue have been provided by the two organizations in order to obtain Ministry funding. I have carefully reviewed the records and find that they contain budget information and fund-raising strategies of the two organizations. In my view, this information qualifies as financial and commercial information and, therefore, part one of the test has been met.

### **Part Two of the Test**

The organizations make it clear in their representations that it was their understanding that the information supplied was to be treated as confidential. With respect to part two of the test, I am satisfied that, in the circumstances of this appeal, the disclosure of the records would reveal information which was supplied to the Ministry by the two organizations, implicitly in confidence.

### **Part Three of the Test**

To satisfy this component of the test, the Ministry and/or the organizations must describe a set of facts or circumstances that would lead to a reasonable expectation that one of the harms described in section 17(1) will occur if the information contained in the records is released. The evidence which is presented to establish this connection must be clear and convincing.

With respect to part three of the test, the appellant submits that the information should be disclosed so that private individuals might judge the basis on which the grant was made and whether the organization has applied the funds in accordance with the goals set out in the grant.

In their representations, the organizations take the position that the disclosure of their fund-raising strategies and budget information would significantly prejudice their competitive position under section 17(1)(a) of the Act and result in undue loss to them under section 17(1)(c) of the Act. In applying for these grants, the organizations have been required to provide the Ministry with detailed information about their other funding sources.

In Orders P-777 and P-800, Assistant Commissioner Irwin Glasberg observed that organizations which  
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apply for grants under Ministry Anti-Racism Programs must provide the Ministry with detailed information about their funding sources. He further observed that the disclosure of this type of information is not necessary to scrutinize the operation of the Ministry's funding program. In both appeals, he found that the disclosure of this information would significantly interfere with the organization's ability to secure comparable funding in the future under section 17(1)(a). I adopt the reasoning of Assistant Commissioner Glasberg for the purpose of this appeal.

I find that Records A3, A5, B2 and B5 contain information about the two organizations concerning their funding sources. This information, which I have highlighted in blue on the copy of the records to be provided to the Ministry's Freedom of Information and Privacy Co-ordinator, satisfies the three parts of the section 17(1) test and should not be disclosed. The remaining information, which does not qualify for exemption under sections 17(1) or 21(1), should be disclosed to the appellant.

### **PUBLIC INTEREST IN DISCLOSURE**

In her representations, the appellant submits that the public should be entitled to information concerning grants made by the government to private organizations. I have found above that only certain personal information and information relating to other funding sources is exempt from disclosure under sections 17(1) and 21(1).

In order for section 23 of the Act to apply to a record in the context of this appeal, two requirements must be met. First, there must exist a compelling public interest in the disclosure of the records. Second, this interest must clearly outweigh the purpose of the third party information exemption.

I have carefully considered the position put forward by the appellant in conjunction with the information which remains at issue. My conclusion is that there does not exist a compelling public interest in the disclosure of the information which clearly outweighs the need to protect sensitive third party information. In arriving at this conclusion, I have also considered the fact that the appellant has received access to the vast majority of information contained in the records.

For these reasons, I find that the public interest override provision does not apply to those parts of the records to which the section 17(1) or 21(1) exemptions apply. The Ministry must, therefore, not disclose this information to the appellant.

### **ORDER:**

1. I uphold the decision of the Ministry not to disclose those portions of Records A3, A5, B2, B3, B5 and B6 which have been highlighted on the copy of the records which has been provided to the  
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Ministry's Freedom of Information and Privacy Co-ordinator with a copy of this order.

2. I order the Ministry to disclose to the appellant Records A2, A6A, A6B, A6E and B7 in their entirety and those portions of Records A3, A5, B2, B3, B5 and B6 which are not highlighted within fifteen (15) days of the date of this order.
3. In order to verify compliance with the provisions of this order, I reserve the right to require the Ministry to provide me with a copy of the records which are disclosed to the appellant pursuant to Provision 2.

Original signed by: \_\_\_\_\_

Donald Hale  
Inquiry Officer

\_\_\_\_\_  
January 13, 1995

## APPENDIX "A"

### INDEX OF RECORDS AT ISSUE

RECORD NUMBER(S)	DESCRIPTION OF RECORDS	DISPOSITION
1 (#A2)	Letter from D. Cavallero, AMFO, to Mr. N. Trann, Ontario Anti-Racism Secretariat	Disclosed
2 (#A3)	AMFO's Anti-Racism Funding Program Application received December 4, 1992	Disclosed in part
3 (#A5)	Project Proposal: "Camp de Leadership de l'AMFO"	Disclosed in part
4 (#A6A)	Memo to be sent to secondary school principals describing the Leadership camp	Disclosed
5 (#A6B)	Instructions to potential participants in Leadership Camp	Disclosed
6 (#A6E)	Letter of reference form	Disclosed
7 (#B2)	CHAD's Anti-Racism Funding Program Application received December 10, 1993	Disclosed in part
8 (#B3)	General information on CHAD entitled "Eclairage sur C.H.A.D.O.C."	Disclosed in part
9 (#B5)	Financial statements of CHAD	Disclosed in part
10 (#B7)	Photocopy of cheque paid to Treasurer of Ontario dated Dec. 10\91 (incorporation fees)	Disclosed