



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

ORDER P-1077

Appeal P-9500347

Ministry of the Solicitor General and Correctional Services



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NATURE OF THE APPEAL:

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) relating to a job competition in which the requester was an unsuccessful candidate.

The Ministry granted access to the requester's own resume, application, interview answers and scoring sheets and partial access to other administrative records associated with the competition. Access was denied to all records and parts of records which related to the other seven individuals who were interviewed. The information which was not disclosed was withheld pursuant to the following exemption in the Act:

- invasion of privacy - section 49(b)

The requester appealed the Ministry's decision. During mediation, the appellant indicated that he is only seeking access to the interview answers of the other individuals who were interviewed in the competition.

A Notice of Inquiry was sent to the appellant, the Ministry and the successful candidate. Representations were received from all parties.

DISCUSSION:

INVASION OF PRIVACY

The Ministry acknowledges in its representations that the appropriate exemption claim is section 21, as opposed to section 49(b), and I agree.

The appellant states that he is not seeking access to identifying information, specifically the name, educational and employment background, of the other candidates. The appellant submits that as the responses were recorded by the interviewers, handwriting could not serve to identify a candidate. He also submits that the successful candidate would not be identifiable by their score, as he has been informed through the grievance procedure that he achieved the highest score in the competition.

The Ministry submits that even with the names and other personal identifiers removed, the appellant will be able to link certain answers to questions to certain identifiable candidates. In this regard, the Ministry points out that the number of candidates interviewed was small, and two of the seven other candidates are employed at the same correctional centre as the appellant.

I have reviewed the records carefully and, in my view, only the "Experience" section of the answer sheets relates to the educational and employment background of each candidate. Other than within the "Experience" section, the experience and employment background of a particular candidate are not a component of the "Desired Response" section of any of the questions, and the questions are not specifically designed to elicit that kind of information.

Under section 2(1) of the Act, “personal information” is defined, in part, to mean recorded information about an **identifiable** individual. Once the name and the “Comments” column of the “Experience” section of each answer sheet has been removed from the records at issue, in my view, the remaining information is not information **about** an **identifiable** individual, and does not qualify as personal information.

As section 21 of the Act can only apply to personal information, it is not necessary for me to consider its application in the circumstances of this appeal.

ORDER:

1. I order the Ministry to disclose the records (with the exception of the name and the “Comments” column of the “Experience” section of each answer sheet) within thirty-five (35) days of the date of this order, but not earlier than the thirtieth (30th) day following the date of this order.
2. I order the Ministry not to disclose the name and the “Comments” column of the “Experience” section of each answer sheet.
3. In order to verify compliance with 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 1.

Original signed by: _____
Holly Big Canoe
Inquiry Officer

December 6, 1995