

COR/2019/04590

September 11, 2019

Dear Applicant:

Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act* (Our File #: TW/109/2018)

On August 19, 2019, the Department of Transportation and Works received your request for access to the following records:

In reference to the Five Year Plan by the Department of Transportation and Works, 75 % of projects planned for 2018-2019 were announced with the remaining 25 % added based "on emerging issues, input from engineers and input from residents" in 2018. For 2019-2020, 75 % were announced with the remaining 25% added this year. Therefore, I am requesting a list of all projects, monies allocated and funding spent that were included in the 25% for 2018-2019 and All projects planned for 2019-2020 that were included in the 25%, monies allocated and spent or committed. Copies of letters of commitment, Tender closing dates and dates Tenders awarded and amounts for 2018-2019 and 2019-2020 fiscal years.

ATIPP relates to proving unpublished records that are in the custody or control of Transportation and Works. Transportation and Works is not obligated to create records to respond to a request. As I described in an email on August 20, 2019, the information requested (excluding award letters) is already publicly available through proactive disclosure. The Report after Tender Call (RATC) website lists all projects that went to tender and will include the unplanned 25%. Therefore, it is feasible that one could compare the posted roads plan to the posted RATCs to obtain the information requested.

RATC list: <https://www.tw.gov.nl.ca/TenderingandContracts/reports/index.html>

Five-Year Provincial Roads Plan:

<https://www.tw.gov.nl.ca/publications/Transportation%20Roads%20Plan%202019.pdf>

Contract Awards: <https://www.gpa.gov.nl.ca/tenders/awarded.html>

Note: If you wish to obtain copies of specific award letters please provide the project numbers in a new ATIPP request.

Please be advised that you may appeal this decision and ask the Information and Privacy Commissioner to review the decision to deny access to the requested information, as set out in section 42 of the *Act* (a copy of this section of the *Act* has been enclosed for your reference). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your appeal should identify your concerns with the request and why you are submitting the appeal.

The appeal may be addressed to the Information and Privacy Commissioner as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John's, NL. A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the *Act* (a copy of this section of the *Act* has been enclosed for your reference).

Please be advised that this letter will be published following a 72 hour period after it is sent electronically to you, or five business days in the case where records are mailed to you. It is the goal to have the letter posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please contact me by telephone at 709-729-5351 or by email at ATTW@gov.nl.ca.

Sincerely,

A handwritten signature in black ink, appearing to read "Angela McIntyre".

Angela McIntyre
ATIPP Coordinator

Access or correction complaint

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52 (1) or 53 (1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21 ;

(b) a decision respecting an extension of time under section 23 ;

(c) a variation of a procedure under section 24 ; or

(d) an estimate of costs or a decision not to waive a cost under section 26 .

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

Direct appeal to Trial Division by an applicant

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant