



**[4]** I have jurisdiction over the Department of Finance: ATIPPA, section 2, definition of “public body”.

### **Issues**

**[5]** The issues in this review are:

- a. Did the Department of Finance correctly apply the exemption in section 20(1)(a) regarding prejudice to a law enforcement matter?
- b. Did the Department of Finance correctly apply the exemption in section 23 regarding unreasonable invasion of a third party’s personal privacy?

### **Facts**

**[6]** The facts are the same as in *Department of Family Services (Re)*, 2022 NUIPC 18 (CanLII).

### **Law**

**[7]** The law is the same as in *Department of Family Services (Re)*, 2022 NUIPC 18 (CanLII).

### **Analysis**

**[8]** My analysis is the same as in *Department of Family Services (Re)*, 2022 NUIPC 18 (CanLII).

**[9]** For the reasons given in that decision, I find that the exemption in section 20(1)(a) applies to the internal audit reports, and the reports may be withheld in their entirety.

**[10]** There is only one matter on which I would like to comment that applies only to the Finance side of this case.

**[11]** The records withheld by Finance were internal audit reports. In internal e-mails, a Finance official wrote that internal audit reports are never disclosed publicly. That may be true if an internal audit report is requested outside the ATIPPA, and that is probably all that the Finance official meant.

**[12]** In case there is any doubt, however, I wish to underline that there is no special exemption in the ATIPPA for internal audit reports. Internal audit is not mentioned in the ATIPPA at all, and is mentioned only in passing in section 7 of the ATIPP Regulations. Internal audit reports are records in the control or custody of the GN. Like any other GN records, they are subject to disclosure under the ATIPPA, with due regard being had to any applicable exemptions.

### **Conclusion**

**[13]** The Department of Finance correctly applied the exemption in section 20(1)(a). That exemption supports withholding the internal audit reports in their entirety.

**[14]** Because of my conclusion on section 20(1)(a), it is not necessary to reach a firm conclusion on section 23. For purposes of guidance, the Department of Finance did not correctly interpret section 23(2)(b). Section 23 may still support redaction of personal information in the audit reports, but not the entire report.

### **Recommendations**

**[15]** **I recommend** that the Department of Finance continue to withhold the internal audit reports.

**[16]** **I recommend** that the Department of Finance revisit its decision to withhold the internal audit reports if (a) criminal charges are laid in connection with the subject-matter of the reports, or (b) the RCMP states publicly that criminal charges will not be laid.

Graham Steele

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