

[3] The issues in this Review Report are substantially the same as in *Department of Family Services (Re)*, 2023 NUIPC 13 (CanLII), which is being issued at the same time. The two Review Reports should be read together.

[4] The issues in this Review Report are also substantially the same as in *Department of Finance (Re)*, 2022 NUIPC 19 (CanLII), and *Department of Family Services (Re)*, 2022 NUIPC 18 (CanLII). I will refer to those decisions as, respectively, Review Report 22-228 and Review Report 22-227.

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

Issues

- [6] The issues in this review are:
- a. Did Finance correctly apply the exemption in section 20(1)(a)?
 - b. If not, what is the appropriate remedy?

Facts

[7] Except for what follows, the facts are the same as in Review Report 22-227 and Review Report 22-228.

[8] On May 9, 2023, the Applicant submitted a fresh request for records. The request was essentially the same as in Review Report 22-228. As a result, Finance did not undertake a new search for responsive records. As in Review Report 22-228, Finance identified two internal audit reports as the only responsive records.

[9] On May 30, 2023, Finance sent a refusal letter to the Applicant. The explanation for withholding the internal audit reports reads, in full, as follows:

Unfortunately, access to all the information which you requested is denied under Sections 20. (1)(a) of the *ATIPP Act*.

[10] On May 31, 2023, the Applicant requested that I review Finance’s refusal to disclose the report. As part of my review, I asked Finance to send to me all correspondence on the file. I received the correspondence on June 12.

Law

[11] The law is the same as in Review Report 22-227: *Department of Family Services (Re)*, 2022 NUIPC 18 (CanLII) at paragraphs 16 to 22.

[12] In sum: a record may be withheld under section 20(1)(a) if there is a “reasonable possibility” of prejudice to the law enforcement matter. A “reasonable possibility” is less than a probability but more than speculation.

Analysis

[13] My analysis is the same as in Review Report 23-246: see *Department of Family Services (Re)*, 2023 NUIPC 13 (CanLII) starting at paragraph 14.

[14] For the reasons given in that decision, I find that the exemption in section 20(1)(a) no longer applies to the internal audit reports. The reports should now be reviewed for redactions under section 23 and disclosed according to the timeline I outline in Review Report 23-246: see *Department of Family Services (Re)*, 2023 NUIPC 13 (CanLII) at paragraph 37.

Conclusion

[15] Finance did not correctly apply section 20(1)(a).

[16] Finance should release the internal audit reports. Finance will, however, need some time to review the reports for redactions under section 23. That work should start now so that the reports are ready for release in accordance with the timeline in paragraph 37 of Review Report 23-246.

Recommendations

[17] **I recommend** that the Department of Finance immediately start reviewing the internal audit reports for redactions under section 23.

[18] I recommend that the Department of Finance release the internal audit reports, with appropriate redactions, to the Applicant on the earliest of the following three dates: (a) the date the RCMP announces it has laid charges in connection with the YWCA Agvik investigation; (b) the date the RCMP announces it will not lay charges in connection with the YWCA Agvik investigation; and (c) September 19, 2023.

Graham Steele

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