

Supplementary Submission to the ATIPPA Review Committee

Submitted by: Barry Tilley, President- Dicks and Company Limited

August 26, 2014

We are compelled to provide this supplementary submission in response to the submission made by Memorial University (MUN). The key issue we brought to the Committee was that information made available to us before the Bill 29 amendments to s.27 may no longer be available, depending on the decision of the Court. MUN's submission included the following:

Regarding Submission to ATIPPA Review Committee by Dicks & Co.

With respect to the submission of Dicks & Co., Memorial University thinks that it is appropriate to clarify a point.

In his submission on behalf of Dicks & Co., Mr. Barry Tilley argues that the experience of the company in respect of ATIPP requests to Memorial University serves to illustrate that the 2012 amendments weakened s. 27. Mr. Tilley indicated that the types of records they received prior to the s. 27 amendment were not available to them after the amendments came into force. However, the record types sought prior to the amendment were different from those sought after the amendment.

When Dicks & Co. sought a copy of bids made by competitors, they were supplied; but when Dicks & Co filed an ATIPP request in September 2012 for a record of non-contract office supply items, the affected third party took the position that this would seriously harm its competitive position. We cannot know how that request, had it been made before s. 27 was amended, would have unfolded.

These assertions, if accurate, would call our credibility into question and suggest that our submission to the Committee was misleading. In response to these assertions, I sent an e-mail to Ms Rosemary Thorne at MUN on August 20th which states in part the following:

I have attached a copy of an ATIPP request dated June 1 2012 where we requested the list of 4,236 items purchased by Mun from Staples in fiscal 2010 which was a list of both contract and non-contract items and it was provided with Staples consent before Bill 29. This request was in addition to a request for a copy of competing bids which you refer to above. I have also attached a copy of an ATIPP request dated August 28, 2012 where we sought a list of contract items and non-contract items for the period from July 1, 2011 to June 30, 2012 which is before the court.

My submission to the Committee stated that the latter request was very similar to the earlier one and we still maintain that position. Your assertion above that the records sought were different is simply not true.

I respectfully request that you contact the Committee to correct the statements made by you with regard to our submission. Please advise how you intend to proceed at your earliest convenience.

The attachments to this e-mail are also attached to this submission.

In response to the June 1, 2012 ATIPP request we received the following from Ms. Thorne's office:

From: Whelan, Jaclyn [<mailto:jaclynw@mun.ca>]
Sent: Tuesday, September 18, 2012 12:34 PM
To: David Read
Cc: Hollett, Suzanne
Subject: Your ATIPP Request, our file R-03-02-12; OIPC File 0020-062-12-018

Hi Mr. Read,

Further to correspondence from the Third Party wherein it consented to the release of the list of 4236 items purchased by Memorial from Staples in 2010, please find the information attached.

Please advise if you require a hard copy of this information.

Thank you,
Jaclyn

JACLYN WHELAN, B.A., LL.B. | ATIPP ANALYST
Information Access and Privacy Protection Office
208 Elizabeth Avenue
Memorial University of Newfoundland
St. John's, NL, Canada A1C 5S7
T: 709-864-7949 | F: 709-864-2013
jaclynw@mun.ca
<http://www.mun.ca/iapp>

The response to my August 20th, 2014 e-mail from Ms. Thorne was as follows:

From: Thorne, Rosemary [<mailto:rosemaryt@mun.ca>]
Sent: Friday, August 22, 2014 4:28 PM
To: Barry Tilley
Subject: RE: ATTIPPA review committee hearings

Dear Mr. Tilley,

Thank you for your correspondence.

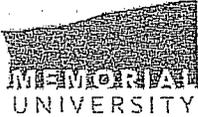
We will not be providing a supplementary submission to the ATIPPA Review Committee.

Sincerely,

Rosemary Thorne

We submit that MUN should acknowledge the misinformation supplied to the Committee and correct it.

We trust this information will be of assistance to you.



ATIPP Request Form

A-4

Information Access
and Privacy Protection

Personal information on this form is collected under Newfoundland and Labrador's *Access to Information and Protection of Privacy Act* and will be used to respond to your request. See instructions below.

1. Applicant (please print)	
Surname: Read	First Name: David
Organization (where applicable): Dicks and Company, Limited	
Address: 385 Empire Ave., PO Box 490 St. John's NL	
<small>RE: Review of Memorial Tender TFS-009-11 by the Internal Consultant, Office of the Vice-President, September, 2011. Document Reference: U/GK/TEND1012 (2011). We are seeking a copy of the list of 4236 items purchased by Memorial from Staples Advantage Canada in 2010. For</small>	
Postal Code: A1C 5K6	
Daytime Telephone #: (709) 778-2332	Facsimile #: (709) 579-2305
E-mail Address: info@dacnl.com	

2. I would prefer to: examine a copy of the records receive a copy of the records

3. What records are you seeking? Please check one

My personal information

General information

Another person's personal information (attach proof of authority)

RE: Review of Memorial Tender TFS-009-11 by the Internal Consultant, Office of the Vice-President. September, 2011, Document Reference: U/GK/TEND1012 (2011).

We are seeking a copy of the list of 4236 items purchased by Memorial from Staples Advantage Canada in 2010, (as referenced on page two of the above document), complete with descriptions, prices and units of measure.

FILE COPY

If you need more space, attach a separate piece of paper.

Applicant's Signature: Read Date: 2012-06-01
YYYY-MM-DD

For MUN use only	
Date received:	File #



ATIPP Request Form

Information Access
and Privacy Protection

Personal information on this form is collected under Newfoundland and Labrador's *Access to Information and Protection of Privacy Act* and will be used to respond to your request. **See instructions below.**

1. Applicant (please print)	
Surname: Read	First Name: David
Organization (where applicable): Dicks and Company Limited	
Address: 385 Empire Avenue St. John's NL	
<small>Re Memorial's award of tender TFS-009-11 to Staples Advantage for the period from July 1, 2011 to May 31, 2014. We are seeking a list of contract items purchased from Staples for the period from July 1, 2011 to June 30, 2012 to include the product number, item description, quantity purchased, unit of measure, price charged, and total extended value per item.</small>	
Postal Code: A1C 5K6709	
Daytime Telephone # : (709) 778-2322	Facsimile # : (709) 579-2305
E-mail Address: info@dacnl.com	

2. I would prefer to: examine a copy of the records receive a copy of the records

3. What records are you seeking? Please check one

- My personal information
- General information
- Another person's personal information (attach proof of authority)

Re Memorial's award of tender TFS-009-11 to Staples Advantage for the period from July 1, 2011 to May 31, 2014.

We are seeking a list of contract items purchased from Staples for the period from July 1, 2011 to June 30, 2012 to include the product number, item description, quantity purchased, unit of measure, price charged, and total extended value per item.

We are also seeking a list of non contract office supply contract items purchased from Staples for the period from July 1, 2011 to June 30, 2012 to include the product number, item description, quantity purchased, unit of measure, price charged, and total extended value per item.

Please refer to the attached document which is an excerpt from Staples advantage bid in response to this tender outlining the reports available at no charge from which we expect this information should be readily available. *If you need more space, attach a separate piece of paper.*

Applicant's Signature: _____ **Date:** 2012-08-29
YYYY-MM-DD

<i>For MUN use only</i>	
Date received:	File #