

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2017-70

September 1, 2017

TREASURY BOARD AND FINANCE

Case File Number 006000

Office URL: www.oipc.ab.ca

Summary: An Applicant made an access request dated March 30, 2016 to Treasury Board and Finance (Public Body). The Public Body acknowledged receipt of the request but has not yet provided a response as required by the *Freedom of Information and Protection of Privacy Act* (the Act).

The Applicant requested a review of the time taken by the Public Body to respond.

The Adjudicator ordered the Public Body to respond to the Applicant's access request as required by the Act.

Statutes Cited: **AB:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 11, 14, 72.

I. BACKGROUND

[para 1] On March 30, 2016, Treasury Board and Finance (Public Body) received two access requests made under the *Freedom of Information and Protection of Privacy Act* (the Act). The Public Body acknowledged receipt of the request by letter dated April 1, 2016. In that letter, the Public Body confirmed a prior telephone call in which the Applicant had agreed to go ahead with only one of the requests. The Public Body also stated that it would endeavor to respond to the Applicant's request by April 29, 2016.

[para 2] By letter dated April 21, 2016, the Public Body provided the Applicant with a fee estimate of \$1269.00. That letter informed the Applicant that the processing of the request would cease until the Public Body received the Applicant's deposit (\$634.50). The letter also stated that if the Applicant did not respond to the Public Body by May 24, 2016, the request would be considered abandoned.

[para 3] The Applicant requested a fee waiver, by letter dated April 29, 2016.

[para 4] By letter dated May 30, 2016, the Public Body informed the Applicant that it was refusing the Applicant's fee waiver request. It told the Applicant that he had until June 19, 2016 to accept the fee estimate as previously given, and pay the deposit.

[para 5] The Applicant paid the deposit on July 26, 2016. By letter dated August 2, 2016, the Public Body informed the Applicant that the new time limit for responding to his request, accounting for the pause in processing until the Applicant paid the deposit, was August 4, 2016. The Public Body stated that it could not complete processing that request within that time period, and extended its time under section 14(1)(b) of the Act to September 3, 2016.

[para 6] By letter dated November 4, 2016, the Public Body informed the Applicant that it had received permission from this Office on September 19, 2016, to extend the time period for responding to the Applicant's request to October 3, 2016, pursuant to section 14(1)(b) of the Act (the letter from the Assistant Commissioner, provided to me by the Public Body, states that the due date was extended to October 6, 2016). It then received permission from this Office to again extend the time period to December 5, 2016 (the Public Body's letter to the Applicant states that the due date was extended to December 2, 2016).

[para 7] By letter dated December 15, 2016, the Public Body informed the Applicant that it had received permission from this Office to extend the time to respond to March 2, 2017, under section 14(1)(b) of the Act (the letter from the Assistant Commissioner, provided to me by the Public Body, states that the due date was extended to March 6, 2017).

[para 8] On June 15, 2017, this Office received the Applicant's request for a review of the Public Body's failure to respond.

II. RECORDS AT ISSUE

[para 9] As the issue in this inquiry relates to the timeliness of the Public Body's response, there are no records at issue.

III. ISSUE

[para 10] The Notice of Inquiry, dated August 2, 2017, states the issue for this inquiry as follows:

Did the Public Body comply with section 11 of the Act (time limit for responding)?

IV. DISCUSSION OF ISSUE

[para 11] Section 11 of the Act requires a public body to make every reasonable effort to respond to an access request no later than 30 days after receiving the request. Section 11 of the Act states:

11(1) The head of a public body must make every reasonable effort to respond to a request not later than 30 days after receiving it unless

(a) that time limit is extended under section 14, or

(b) the request has been transferred under section 15 to another public body.

(2) The failure of the head to respond to a request within the 30-day period or any extended period is to be treated as a decision to refuse access to the record.

[para 12] The Public Body admits that it failed to meet the requirements of section 11. Its submission states:

The Public Body is actively working on this request. After compiling all of the responsive records there were over 6,300 pages of records. The Public Body has completed a line-by-line review and narrowed the records eliminated by the Applicant (i.e. drafts, duplicates) resulting in over 1,300 pages of records. Consultations with other parties have been completed, and the records package is nearing completion. We anticipate disclosing the records to the Applicant within the next 60 days.

[para 13] Given the date of the Applicant's access request and other relevant correspondence, and the Public Body's acknowledgement that it did not comply with section 11 of the FOIP Act, I find that the Public Body failed to make every reasonable effort to respond within the timelines provided in the Act.

V. ORDER

[para 14] I make this Order under section 72 of the Act.

[para 15] I find that the Public Body did not respond to the Applicant within the time limit set out in section 11 of the Act. While it is too late for the Public Body to now comply with that section of the Act, I order the Public Body to respond to the Applicant in accordance with the Public Body's remaining duties under the Act.

[para 16] I further order the Public Body to notify me in writing, within 50 days of being given a copy of this Order, that it has complied with the Order.

Amanda Swanek
Adjudicator