

ALBERTA

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

ORDER F2019-03

March 4, 2019

AGRICULTURE AND FORESTRY

Case File Number 010396

Office URL: www.oipc.ab.ca

Summary: On July 5, 2017, the Applicant made a request for access under the *Freedom of Information and Protection of Privacy Act* (the FOIP Act) to Alberta Agriculture and Forestry (the Public Body). It requested:

[...] all briefing notes, including attachments, that were created as a result of or in preparation for meetings between the Minister and Deputy Minister.

The Public Body did not respond to the Applicant and the Applicant requested review by the Commissioner.

The Adjudicator directed the Public Body to respond to the Applicant.

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

I. BACKGROUND

[para 1] On July 5, 2017, the Applicant made a request for access under the *Freedom of Information and Protection of Privacy Act* (the FOIP Act) to Alberta Agriculture and Forestry (the Public Body). It requested:

[...] all briefing notes, including attachments, that were created as a result of or in preparation for meetings between the Minister and Deputy Minister.

The request was for responsive records created between May 24, 2015 and the date the access request was received.

[para 2] The Public Body determined that the access request was a continuing request for records. On July 20, 2017, the Public Body acknowledged receipt of the access request. It estimated that the fees for processing the access request would be \$3546.00.

[para 3] The Applicant requested a fee waiver on the basis that the records related to a matter of public interest.

[para 4] On September 14, 2017, the Public Body excused the Applicant from paying a deposit prior to processing the first part of the access request. The Public Body decided to grant a 50% fee waiver.

[para 5] On September 27, 2017, the Public Body extended the time for responding to the Applicant until October 30, 2017.

[para 6] On November 2, 2017, the Public Body informed the Applicant that it had received an additional extension from this office. It explained that the extension was necessary due to the volume of responsive records and the need to consult with another public body. The new date the Public Body anticipated responding by was January 2, 2018.

[para 7] On December 18, 2017 and January 18, 2018 the Public Body provided the Applicant with fee estimates for the second and third installments. The Applicant paid the requested deposits.

[para 8] On March 22, 2018, the Applicant paid \$349.20 to cover the actual costs of processing the first part of the access request. However, the Public Body did not provide any records, and has not yet determined the actual costs of processing the access request.

[para 9] On April 18, 2018, July 19, 2018, October 18, 2018, and December 19, 2018 the Public Body wrote the Applicant to inform it that it had not heard from it regarding payment of fourth, fifth, sixth, and seventh installments. The Public Body decided to treat the fourth, fifth, and sixth parts of the access request as abandoned and to give the Applicant until January 8, 2019 to pay the deposit for the seventh installment.

[para 10] On December 5, 2018, the Applicant requested review by the Commissioner of the Public Body's failure to respond to the access request.

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

[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] In its submissions for the inquiry, the Public Body acknowledged that it had not complied with section 11 of the FOIP Act.

[para 13] As the Public Body has not responded to the Applicant, I must direct the Public Body to respond to the Applicant in relation to those parts of the access request for which it has received payment of fees or waived the need for a deposit.

III. ORDER

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

[para 15] I order the Public Body to respond to the Applicant as required by section 11 of the FOIP Act and to process those portions of the access request for which it has received payment or waived the need for a deposit.

[para 16] I order the Public Body to inform me within 50 days of receiving this order that it has complied with it.

Teresa Cunningham
Adjudicator