

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2016-44

October 17, 2016

ALBERTA JUSTICE AND SOLICITOR GENERAL

Case File Number 003655

Office URL: www.oipc.ab.ca

Summary: The Applicant made an access request to Alberta Justice and Solicitor General (the Public Body) pursuant to the *Freedom of Information and Protection of Privacy Act* (the Act) for records relating to sole-sourced contracts. The Public Body responded and confirmed that it had received the access request and would attempt to process the request in the time allotted by the Act. The Applicant did not receive a response to his access request from the Public Body.

The Adjudicator found that the Public Body did not respond to the Applicant within the time limit set out in section 11 of the Act. Therefore, the Adjudicator ordered them to do so.

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

I. BACKGROUND

[para 1] On August 20, 2015, the Applicant made an access request to the Public Body pursuant to the *Freedom of Information and Protection of Privacy Act* (the Act) for records relating to sole-sourced contracts. Specifically he requested:

I request a report/list to be generated, including all standard data, for all contracts that were sole-sourced in the fiscal year 2014/15. I'd also like a brief description and the IMAGIS or

other accounting system journal entry for what each contract was for. I'd like contracts to be those signed during the fiscal year 2014/15.

I would also like the report/list to include the total dollar amount expended by the Ministry for the fiscal year 2014/15 for sole source contracts and the total number of signed sole sourced contracts for the fiscal year 2014/15.

I would also like the report to include a breakdown of the total number of contracts and the total dollar amount over the threshold values of contracts over \$10 000, and contracts over \$75 000 as well as the total number of sole source contracts overall.

I also request all Ministry policies related to contracting/procurement for the period between January 1, 2014 and August 20, 2015, inclusive.

[para 2] On August 25, 2015, the Public Body wrote to the Applicant and acknowledged receipt of the access request and stated that it would make every reasonable effort to respond to him by September 23, 2015. On September 23, 2015, the Public Body wrote to the Applicant and advised him that it needed a further 30 days to respond to his access request and would make every reasonable effort to respond to the request by October 23, 2015.

[para 3] To date, the Applicant has not received a response to his access request from the Public Body.

[para 4] On September 1, 2016, the Office of the Information and Privacy Commissioner received a Request for Review from the Applicant. On September 13, 2016, the Office of the Information and Privacy Commissioner issued a Notice of Inquiry. I received submissions from the Public Body.

II. ISSUE

[para 5] The Notice of Inquiry dated September 13, 2016 states the issue in this inquiry as follows:

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

III. DISCUSSION OF ISSUE

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

[para 6] 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 7] The Public Body acknowledges that it has missed the deadline imposed by section 11. It states that it has numerous late files and is processing them in the order in which they have come in, with the exception of those that are given priority because of Court date and other such things. It further states that any fees associated with this access request will be waived.

[para 8] The Public Body further submits that it has taken steps to attempt to alleviate its backlog by hiring additional resources and making internal processes more efficient. It is also currently recruiting temporary FOIP advisors.

[para 9] I understand that the lack of resources with which to process the volume of requests received by the Public Body are serious issues the Public Body is having to deal with when attempting to respond to this specific access request. While I sympathize with the predicament in which the Public Body currently finds itself, section 11 of the Act sets out a statutory obligation which has not been met. Therefore, I find that the Public Body has breached section 11 of the Act.

IV. ORDER

[para 10] I make this Order under section 72 of the Act.

[para 11] 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 12] I 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 it.

Keri H. Ridley
Adjudicator