

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2017-30

March 9, 2017

ALBERTA ENVIRONMENT AND PARKS

Case File Number 004357

Office URL: www.oipc.ab.ca

Summary: The Applicant made an access request to Alberta Environment and Parks (the Public Body) pursuant to the *Freedom of Information and Protection of Privacy Act* (the Act). The Public Body acknowledged it did not respond to the Applicant within the time frame of section 11 of the Act. The Adjudicator ordered the Public Body to comply with 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] This inquiry arises from a request for records made by the Applicant to Alberta Environment and Parks (the Public Body) on November 27, 2015. He requested “all financial records related to the results-based budgeting (RBB) cycles. Please include, but do not limit to contracts and invoices for the process. I further request all briefing notes, memos, and contract tenders in relation to RBB cycles.” The dates for the requested records was from January 1, 2012 to the date the request was received by the Public Body (December 2, 2015). The Applicant states that the Public Body has not responded to the access request. The Applicant has therefore requested review by the Commissioner of the Public Body’s compliance with section 11 of the Act.

II. ISSUE

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

III. DISCUSSION OF ISSUE

[para 2] 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 3] The Applicant's request for access to information was received by the Public Body on December 2, 2015.

[para 4] The Public Body wrote the Applicant on December 9, 2015 and indicated the Applicant would receive the Public Body's response on January 4, 2016. On December 15, 2015 the Public Body confirmed the request was narrowed to focus on records specifically related to the Public Body's "outsourcing for the purposes of conducting the results-based budgeting project including but not limited to contracts, invoices, tenders and all briefing notes and memos".

[para 5] On December 17, 2015 the Public Body wrote further to the Applicant and provided a fee estimate. In that letter, the Public Body advised the Applicant processing of his request had ceased and would recommence once a deposit and response to the fee estimate had been received.

[para 6] The Applicant replied to the Public Body on January 5, 2016 and requested a fee waiver. The Applicant, on March 10, 2016 sent the Public Body 50% of the amount of the fee waiver as a deposit on his request.

[para 7] The Public Body, by letter dated June 8, 2016, informed the Applicant his deposit had been received on March 11, 2016 and his application for a waiver of fees was rejected. The letter also informed the Applicant the processing of his request was in progress. The Applicant has not received a response to his request for access to information.

[para 8] The Public Body's submission to this inquiry states:

During the processing of this file [the Public Body] received over 2087 access requests and the Advisor processing this file was assigned 298 access requests for processing.

Many factors have contributed to the delay in responding to this applicant. A combination of a significant increase in FOIP requests, larger than usual volumes of records, in addition to staff turnover, are some examples for this delay.

[The Public Body] is committed to completing this request as quickly as possible and will continue to update the applicant with regards to the status of this request.

[para 9] Section 14 of the Act states:

14(1) The head of a public body may extend the time for responding to a request for up to 30 days or, with the Commissioner's permission, for a longer period if

(a) the applicant does not give enough detail to enable the public body to identify a requested record,

(b) a large number of records are requested or must be searched and responding within the period set out in section 11 would unreasonably interfere with the operations of the public body,

(c) more time is needed to consult with a third party or another public body before deciding whether to grant access to a record, or

(d) a third party asks for a review under section 65(2) or 77(3).

(2) The head of a public body may, with the Commissioner's permission, extend the time for responding to a request if multiple concurrent requests have been made by the same applicant or multiple concurrent requests have been made by 2 or more applicants who work for the same organization or who work in association with each other.

(3) Despite subsection (1), where the head of a public body is considering giving access to a record to which section 30 applies, the head of the public body may extend the time for responding to the request for the period of time necessary to enable the head to comply with the requirements of section 31.

(4) If the time for responding to a request is extended under subsection (1), (2) or (3), the head of the public body must tell the applicant

(a) the reason for the extension,

(b) when a response can be expected, and

(c) that the applicant may make a complaint to the Commissioner or to an adjudicator, as the case may be, about the extension.

[para 10] The Public Body did not provide me with any evidence that it exercised its options under section 14. I therefore find the Public Body was to respond to the

Applicant within 30 days of receipt of the deposit for fees (March 11, 2016). I find it failed to do so.

[para 11] I find the Public Body has failed to meet its obligations under section 11 of the Act.

IV. ORDER

[para 12] I make this Order under section 72 of the Act.

[para 13] I find the Public Body did not respond to the Applicant within the time limit set out in section 11 of the Act.

[para 14] I order the Public Body to respond to the Applicant in accordance with the Public Body's remaining duties under the Act.

[para 15] 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 the Order.

Neena Ahluwalia Q.C.
Adjudicator