

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2017-41

April 24, 2017

TREASURY BOARD AND FINANCE

Case File Number 005190

Office URL: www.oipc.ab.ca

Summary: An Applicant made an access request under the *Freedom of Information and Protection of Privacy Act* (the Act) dated June 27, 2016 to Treasury Board and Finance (Public Body). The Public Body acknowledged receipt of the request by letter dated July 4, 2016.

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

The Adjudicator found that the Public Body failed to make every reasonable effort to respond within the timelines provided in 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] An Applicant made an access request under the *Freedom of Information and Protection of Privacy Act* (the Act) dated June 27, 2016 to Treasury Board and Finance (Public Body). The Public Body acknowledged receipt of the request by letter dated July 4, 2016.

[para 2] The Public Body sent a further letter dated July 29, 2016, extending its time to respond to the request to August 29, 2016 (pursuant to section 14(1)(b) of the Act).

[para 3] On March 1, 2017, this Office received a request for review from the Applicant, as he had not yet received a response by the Public Body as required by the Act.

[para 4] In its submission to the inquiry, the Public Body stated that it responded to the Applicant's request on March 30, 2017.

II. RECORDS AT ISSUE

[para 5] 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 6] The Notice of Inquiry, dated March 24, 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 7] 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 8] The Applicant's access request is dated June 27, 2016. The Public Body extended its time to respond under section 14 of the Act, to August 29, 2016.

[para 9] On August 30, 2016, the Public Body requested the Commissioner's permission to again extend the time for responding to the request under section 14(2) of the Act. This provision allows a public body to extend the time period for responding to a request, with the Commissioner's permission, when the public body has received multiple concurrent requests from one applicant.

[para 10] The Public Body provided a copy of the Assistant Commissioner's decision granting the Public Body's request to extend its time to respond to the Applicant's access request by a further 30 days. The new date for responding to the Applicant was September 29, 2016.

[para 11] In its submission to the inquiry, the Public Body informed me that it had responded to the Applicant's access request. It provided a copy of a letter, dated March 30, 2017, which accompanied the responsive records provided to the Applicant. The Public Body also provided a

copy of a letter sent to the Applicant dated March 31, 2017, in which the Public Body informed the Applicant that it was refunding the fees he had already paid relating to his request.

[para 12] In its submission, the Public Body admits that it failed to meet the timelines set out in the Act for responding to an access request. It further states:

In addition, TBF has taken steps to avoid missing future response due dates including:

- Extending response due dates when necessary as permitted by the FOIP Act.
- In 2016, the TBF FOIP office was dealing with vacancies due to staff departures. Those vacancies are filled.
- For the 2017-2018 fiscal year, TBF has hired two temporary Junior FOIP Advisors each for a six-month period. This temporary position is meant for staff development (to increase capacity of potential FOIP expertise in the Government of Alberta) and to assist the FOIP Office.

Also, where feasible, TBF will split response packages into batches to disclose as much information to an applicant as soon as possible.

TBF will continue to examine its processes and staffing to address surges in access requests in a reasonable manner and meet the legislated requirements of the FOIP Act.

[para 13] Although the Public Body has now responded to the Applicant as required by the Act, section 11 of the Act requires a public body to make every reasonable effort to respond to an access request in 30 days. The Public Body extended its time to respond, and received permission from this Office to further extend its time to respond. However, the Public Body's response to the Applicant came six months after its extended deadline. In its submission, the Public Body acknowledges that it did not comply with section 11 of the Act.

[para 14] Therefore, I find that the Public Body failed to make every reasonable effort to respond within the timelines provided in the Act.

V. ORDER

[para 15] I make this Order under section 72 of the Act.

[para 16] I find that the Public Body did not respond to the Applicant within the time limit set out in section 11 of the Act. As the Public Body has now responded to the Applicant's access request, it is not necessary for me to order the Public Body to respond to the Applicant under the Act.

Amanda Swanek
Adjudicator