

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2018-03

January 19, 2018

TREASURY BOARD AND FINANCE

Case File Number 006818

Office URL: www.oipc.ab.ca

Summary: An Applicant made an access request dated March 2, 2017, 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] An Applicant made an access request dated March 2, 2017, to Treasury Board and Finance (Public Body) under the *Freedom of Information and Protection of Privacy Act* (the Act). The Public Body acknowledged receipt of the request and sought clarification from the Applicant. It provided the Applicant with a fee estimate by letter dated March 20, 2017, based on the Public Body's understanding of the Applicant's request.

[para 2] Following that fee estimate, the Applicant amended (or further clarified) his request such that the fee estimate was no longer relevant. By letter dated April 5, 2017, the Public Body confirmed the new scope of the Applicant's request, and informed him that the Public Body would resume processing his access request (processing had ceased awaiting the deposit for the estimated fees, per section 14(1) of the FOIP Regulation. The deposit was no longer necessary). In that letter the Public Body also informed the Applicant that it was extending its time to complete his request under section 14(1) of the FOIP Act. The new date for responding was May 19, 2017.

[para 3] On October 12, 2017, this office received the Applicant's request for a review of the Public Body's failure to respond.

II. RECORDS AT ISSUE

[para 4] 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 5] The Notice of Inquiry, dated December 14, 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 6] 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 7] In its submission to this inquiry, the Public Body admits that it failed to meet the requirements of section 11 by failing to respond to the Applicant by the May 19, 2017 deadline.

[para 8] The Public Body notes that it had sought permission from this Office to extend its response due date by a further 90 days (under section 14(1) of the Act) but that this

request was denied. The copy of the Public Body's extension request shows that it requested that further extension from this Office on May 19, 2017.

[para 9] In its submission, the Public Body states that it is "actively working on the request" and that

[o]ver 100,000 pages of email records needed to be reviewed for responsiveness. There are over 5,000 pages of responsive records in total. The responsive records have been split into two sets so that records can be disclosed to the Applicant as soon as possible. The Public Body anticipates disclosing the first set of records before February, 2018. (Initial submission, at page 5)

[para 10] A public body must make every reasonable effort to respond to an access request in 30 days. In this case, the Public Body admits that it did not meet this timeline.

[para 11] 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. Therefore, I will order the Public Body to respond to the Applicant as required by the Act. In this case, the Public Body has stated that it expects the first of two sets of records will be provided to the Applicant within a few weeks.

V. ORDER

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

[para 13] 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 14] 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