

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER FOIP2025-31

November 3, 2025

TRANSPORTATION AND ECONOMIC CORRIDORS

Case File Number 027621

Office URL: www.oipc.ab.ca

Summary: The Applicant made an access request under the *Freedom of Information and Protection of Privacy Act* (FOIP Act/Act) to Transportation and Economic Corridors (the Public Body) for “documents that indicate total funding for all programs for settlement and integration services as it relates to immigration and refugees for fiscal years 2011/2012 to 2021/22 as well as a list of any transfer payments that might have been distributed to non-governmental organizations through these programs.”

The Applicant was provided with the requested information for all years except for 2019/20 to 2021/22. For the last three years the Public Body provided the number of grants and total amounts, citing that it could not provide a breakdown of which grants went towards immigration/refugee services.

The Applicant requested an Inquiry into the Public Body’s response, arguing that the Public Body should be able to provide information as to who received the grants and the amounts received.

The Adjudicator found that while the Public Body was not obligated to create a new record for the Applicant, it was obligated to search for responsive records and provide those.

Statutes Cited: AB: *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 10, 72

Authorities Cited: AB: Orders 97-006, 2001-33, F2007-029, F2011-016, F2012-09, and F2021-24

I. BACKGROUND

[para 1] On January 26, 2022, the Applicant made the following request for documents to the Public Body:

Requesting documents that indicate total funding for all programs for settlement and integration services as it relates to immigration and refugees for fiscal years 2011/22 to 2021/22 as well as a list of any transfer payments that might have been distributed to non-governmental organizations through these programs. Time period: from January 1, 2012 to January 26, 2022.

[para 2] On February 14, 2022, the Public Body responded and provided access to information from 2011/2012 to 2018/2019.

[para 3] On May 4, 2022, the Applicant followed up on the grant years 2019/20, 2020/21 and 2021/22. On May 31, 2022, the Public Body responded and provided the number of grants and the grant total for these years:

- 2019/20: 2 grants totaling \$105,000
- 2020/21: 2 grants totaling \$105,000
- 2021/22: 3 grants totaling \$125,000

[para 4] On June 2, 2022, the Applicant requested clarification of the information that was provided. The Applicant requested that the Public Body provide details of the recipients and the amounts as with the first release that was provided on February 14, 2022:

Thank you for the follow-up information. I am a bit unclear, however, why the ministry has only listed the total of two grants each year (or 3 in 2021/22) rather than indicate the recipients and the amounts. You note below that, under s.10, the ministry no longer creates records. But the ministry cannot transfer monies to a non-governmental agency without creating a record. There should be a record of the recipient/amount for the funding listed below. Could you please followup with the ministry to confirm? We normally work with hundreds of transfer payments from a single ministry every year. It should not be burdensome, I hope, to request that the ministry confirm the 7 recipients of these grants over the three fiscal years and the amount they received.

[para 5] The Public Body advised the Applicant that unlike the previous years (as with the February 14, 2022, release) grants were not tracked in the subsequent years and as such it did not have the same level of detail available.

[para 6] The Public Body submits:

- i. that the 2018/19 year was the last year that the Alberta Traffic Safety Fund (ATSF) which was administered by the Public Body provided funding through grants. Information on grants provided to service the immigrant/refugee communities through the ATSF was stored and readily available in an Excel spreadsheet.
- ii. in the years after the 2018/19 year, grant funding was available through the Public Body itself; however, the Public Body did not track which grants went towards providing services for specifically for immigrants/refugees.

[para 7] The Public Body submits that because data is not tracked in an easily accessible way, someone would have to go into each file and manually pull out the information and record it in a spreadsheet as requested by the Applicant.

[para 8] The Public Body concluded as follows:

The Public Body respectfully submits that it met its duty to assist by providing the records it could in electronic form and that it appropriately applied section 10(2) to not manually create records that were not in an electronic form.

[para 9] The Applicant submits:

Information on government spending is one of the most essential aspects of access to information. This is especially the case with transfer payments, which are government subsidies to non-governmental organizations. It is essential that the government is transparent in how public money is distributed to non-governmental agencies. Refusing to provide the information, or refusing to provide the information in a format that is readable and accessible, is a violation of the Freedom of Information and Protection of Privacy Act. Other ministries have had no difficulty identifying and releasing this information. In this case, our request for clarification includes missing data.

[para 10] The Applicant submits that they are willing to review the list of transfer payments and ascertain which grants targeted immigrant serving agencies.

[para 11] The Applicant further submits that the Government of Alberta has a publicly available Grant Payments Disclosure Table. This table lists grants from the Public Body from 2022/23 to 2025/26; the Applicant's request is for the data from the missing years of 2019/20 to 2021/22.

[para 12] On October 23, 2025, I asked the Public Body to confirm that the records the Applicant is seeking are in the custody and control of the Public Body. The Public Body responded as follows:

Transportation and Economic Corridors confirms the information that the applicant is seeking is in multiple files under their custody and control. However, the information are in files in various locations since the program closed in 2019. Therefore, in order to provide additional records, the public body would need to create the records by pulling information from various sources. Should the public body be required to provide this information, it will be time consuming and would unreasonably interfere with the operations of the public body.

The public body notes that the information requested by the applicant for the later years was released in a letter dated May 31, 2022. The total number of grants and amounts were included in the letter provided to the applicant.

The public body submits that the information requested by the applicant has been provided, and in order to provide additional information, the public body would have to create the records.

[para 13] The Applicant sought a review of the Public Body's decision. Subsequent to the review, the Applicant requested an inquiry. The Commissioner agreed to conduct an inquiry and delegated her authority to conduct it to me.

II. ISSUE: Does section 10(2) of the Act (duty to assist applicants) require the Public Body to create a record for the Applicant?

III. DISCUSSION OF ISSUES

[para 14] Section 10 of the Act states:

10(1) The head of a public body must make every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely.

(2) The head of a public body must create a record for an applicant if

(a) the record can be created from a record that is in electronic form and in the custody or under the control of the public body, using its normal computer hardware and software and technical expertise, and

(b) creating the record would not unreasonably interfere with the operations of the public body.

[para 15] Before I can look at section 10(2), I must look at whether the requirements of section 10(1) have been met. The Public Body has submitted that it has

fulfilled its duty to assist by providing the electronic records that were available, to the Applicant. The Public Body seems focused on the electronic production of the records; this is perhaps because of the language of section 10(2).

[para 16] In Order F2007-029, in paragraph 66, the Commissioner stated the following points for what an adequate search should cover:

- The specific steps taken by the Public Body to identify and locate records responsive to the Applicant's access request
- The scope of the search conducted – for example: physical sites, program areas, specific databases, off-site storage areas, etc.
- The steps taken to identify and locate all possible repositories of records relevant to the access request: keyword searches, records retention and disposition schedules, etc.
- Who did the search
- Why the Public Body believes no more responsive records exist than what has been found or produced

[para 17] As stated in previous orders (97-006 and F2021-24) of this office the burden of proof with respect to a Public Body's obligations under section 10(1) lies with the Public Body.

[para 18] The Public Body's argument that it is not obligated to create a record from an electronic record, only applies to the creation of a new record. It is not an argument against searching for physical records. Section 10(1) requires the Public Body to respond to the Applicant openly, accurately and completely. In fact, the Public Body is not denying that the records exist, it seems that the Public Body is saying that since the information is not available in electronic form, it is not obligated to provide the information requested. Section 10(2) does not obviate the duty to provide responsive records to an Applicant, even if they exist only in physical form.

[para 19] In Order 2001-33, the Commissioner stated:

[para 9] The Applicant has a right of access to records (section 6(1) of the Act). The Applicant does not have a right to have the Public Body answer questions. Similarly, the Public Body does not have a duty to answer the Applicant's questions (it may do so if it wishes), but the Public Body does have a duty to respond to the Applicant about whether it has records that will answer the Applicant's questions.

[para 20] Based on the foregoing, the Public Body is not obligated to go through existing information to determine and create a list of grants that were applied to immigrant/refugee services, the Applicant is willing to do this work himself. The Public Body does, however, have an obligation to locate and provide records containing this

information. This obligation exists regardless of the limitation in section 10(2), which applies only to the creation of records.

[para 21] The requested information on the grants received for immigrant/refugee services was readily available for the years prior to 2019/2020 to 2021/2022 years. The response for the 2019/2020 to 2021/2022 years lacked the detail that was provided in previous years. This is presumably because the Public Body went through a transition and the same level of tracking of the grants is not now available, which is understandable. It is also understandable that to re-create the level of information previously captured by the Public Body, it would have to exert some effort and allocate resources to manually review files to gather the records containing the requested information, and perhaps to redact unresponsive information. As Commissioner Work stated in his order, the Public Body does not have to answer the specific question about what portion of the grant money went towards aiding immigrant and refugee services (unless it wants to), but there is a duty to provide the information that could answer the Applicant's question.

[para 22] The Public seems to have unilaterally narrowed the scope of the access request. Past orders have addressed this, in F2011-016, the adjudicator said:

[para 51] Because the Public Body took an overly restrictive view of the information that the Applicant was seeking, in view of both the wording of his initial access request and the clarification subsequently provided by him, I find that the Public Body did not adequately search for responsive records and therefore did not meet its duty to assist the Applicant under section 10(1) of the Act. I intend to order it to conduct another search for responsive records, bearing in mind the scope of the information that the Applicant actually requested, as discussed above.

[para 23] In Order F2012-09, the Adjudicator said:

[53] ...If a public body interprets a request for records too restrictively, or wrongly, the public body runs the risk of unilaterally narrowing the scope of the access request and failing in its duty to assist the Applicant, by failing to search for records falling within the scope of the access request.

[para 24] I find that the Public Body has not established that it has conducted a search for responsive records beyond that of its electronic database. It has instead focused on what electronic records it has and the need to create an excel spreadsheet with the requested information.

[para 25] I will order the Public Body to search for all responsive records (both electronic and non-electronic) that are in its custody and control and provide responsive records to the Applicant. The Public Body is not being ordered to create a new record,

rather it is being ordered to provide the information to the Applicant that can aid him in finding the information that he is seeking.

IV. ORDER

[para 26] I make this Order under section 72 of the Act.

[para 27] I order the Public Body to assist the Applicant within the terms of section 10(1) and search for and provide responsive records to him.

[para 28] I further order the Public Body to notify me in writing, within 50 days of receiving a copy of this Order, that it has complied with the Order.

Pam Gill
Adjudicator
/rm