ALBERTA

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

ORDER ATIA2026-16

September 17, 2026

CITY OF SPRUCE GROVE

Case File Number 041411

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Summary: Under the *Access to Information Act* (ATIA), the Applicant made an access to information request to the City of Spruce Grove (the Public Body) for information about agreements and financial arrangements between the Public Body and Accident Support Services International Ltd. (the Third Party). The Public Body notified the Third Party about possible disclosure of its information. The Third Party objected to the Public Body's proposed disclosure and argued that its information must be withheld under section 19(1) of ATIA (disclosure harmful to business interests).

The Adjudicator found that there was no substantial difference between section 19(1) of ATIA and section 16(1) of its predecessor legislation, *the Freedom of Information and Protection of Privacy Act* (the FOIP Act). The Adjudicator found that for all records either the information therein was not supplied by the Third Party as required by section 19(1)(b) or there was no reasonable expectation of harm if the information was disclosed as required by section 19(1)(c).

The Adjudicator ordered the Public Body to disclose the records to the Applicant as it had originally planned to do.

Statutes Cited: AB: *Access to Information Act*, S.A. 2024, c. A-1.4, ss. 1(w), 19(1), 19(1)(a), 19(1)(b), 19(1)(c), 19(1)(c)(i), 19(1)(c)(ii), 20(1), 29(1), 32, 63(3), 63(3)(b), 64; *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, s. 16(1).

Authorities Cited: AB: Orders 2000-005, F2005-030, F2005-009, F2008-018, F2012-15, F2015-03 F2019-17; FOIP2025-R-02

Cases Cited: *ABC Benefits Corporation v. Alberta (Information and Privacy Commissioner)*, 2015 ABQB 662; *ABC Benefits Corporation v. Alberta (Information and Privacy Commissioner)*, 2022 ABQB 276; *Agriculture Financial Services Corporation v Alberta (Information and Privacy Commissioner)*, 2012 ABQB 397; *Canada (Prime Minister) v. Canada (Information Commissioner*), [1992] FCJ No. 1054; *Imperial Oil Limited v Calgary (City)*, 2013 ABQB 393; *Imperial Oil Ltd. v. Alberta (Information & Privacy Commissioner)*, 2014 ABCA 231; *Ontario (Ministry of Community Safety & Correctional Services) v Ontario (Information & Privacy Commissioner)* 2014 SCC 31; *Qualicare Health Service Corporation v. Alberta (Office of the Information and Privacy Commissioner)*, 2006 ABQB 515

I. BACKGROUND

[para 1] An applicant (the Applicant) made an access to information request under the *Access to Information Act*, S.A. 2024, c. A-1.4 (ATIA) to the City of Spruce Grove (the Public Body). The Applicant sought the following information:

> 1. Copies of all contracts, written agreements and appointments between the City of Spruce Grove and Accident Support Services International LTD operating as Spruce Grove Accident Support Services LTD which govern the private enterprise operations of the above named companies on behalf of the City of Spruce Grove with respect to and under the provisions of the Traffic Safety Act of Alberta.
>
> 2. Details of any and all contributions or underwriting of finances associated to the rental/lease and operating costs of facilities utilized by the above named companies within Spruce Grove Protective Services located at 36 Fifth Ave, Spruce Grove, AB.
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> Date range: January 1, 2022 to October 26, 2025.

[para 2] The Public Body identified 33 responsive records to the access request, 17 of which it identified as containing the third party information of Accident Support Services International Ltd. operating as Spruce Grove Accident Support Services Ltd. (the Third Party). As reported on the Third Party's website, it operates a collision reporting centre where members of the public can report traffic collisions to meet provincial legal requirements and insurance needs.[1]

[para 3] As required under ATIA, the Public Body notified the Third Party that it may disclose some of its information and sought the Third Party's position on whether any information must be withheld under section 19(1) of ATIA (disclosure harmful to business interests).

[para 4] The Third Party informed the Public Body that it objected to the disclosure and that its position was that the information that the Public Body proposed to disclose must be withheld

under section 19(1) of ATIA. After reviewing the Third Party's position, the Public Body decided that it would partially disclose the 17 pages containing the Third Party's information to the Applicant. Any information withheld from those pages was withheld under sections 20(1) and 32 of ATIA. Information on other pages was withheld under section 29(1) of the ATIA. No information was withheld under section 19(1).

[para 5] The Third Party objected to the proposed disclosure and sought review of the Public Body's decision from this Office. Per standard procedure when a third party requests a review, the matter proceeded directly to the inquiry stage of the review process without investigation or mediation.

[para 6] The Applicant was invited to participate in the inquiry and indicated that they would, but did not provide a submission.

II. RECORDS AT ISSUE

[para 7] While the Public Body identified 17 pages of records containing third party information, I consider all 33 pages of responsive records in this order. Upon reviewing all of the records, all of them contain information about the Third Party or its operations in some form.

III. ISSUE

[para 8] The issue in this inquiry is:

> **Is the Head of the Public Body required by section 19(1) (disclosure harmful to business interests of third party) to withhold information requested by the applicant?**

IV. DISCUSSION OF ISSUE

Burden of Proof

[para 9] Section 63(3)(b) of ATIA prescribes the burden of proof where a public body proposes to disclose information about a third party, other than personal information about a third party:

> *(3) If the inquiry relates to a decision to give an applicant access to all or part of a record containing information about a third party,*
>
> > *(a) in the case of personal information, it is up to the applicant to prove that disclosure of the information would not be an unreasonable invasion of the third party's personal privacy, and*

(b) in any other case, it is up to the third party to prove that the applicant has no right of access to the record or part of the record.

[para 10] The Third Party bears the onus of demonstrating that the Public Body must withhold the disputed information under section 19(1) of ATIA.

[para 11] Section 19(1) of ATIA states:

19(1) The head of a public body must refuse to disclose to an applicant information

(a) that would reveal

(i) trade secrets of a third party, or

(ii) commercial, financial, labour relations, scientific or technical information of a third party,

(b) that is supplied, explicitly or implicitly, in confidence, and

(c) the disclosure of which could reasonably be expected to

(i) harm significantly the competitive position or interfere significantly with the negotiating position of the third party,

(ii) result in similar information no longer being supplied to the public body when it is in the public interest that similar information continue to be supplied,

(iii) result in undue financial loss or gain to any person or organization, or

(iv) reveal information supplied to, or the report of, an arbitrator, mediator, labour relations officer or other person or body appointed to resolve or inquire into a labour relations dispute.

[para 12] "Trade Secret" is defined in section 1(w) of ATIA, but it is not germane in this inquiry.

[para 13] Section 19(1) of ATIA is identical to section 16(1) of its predecessor legislation, the *Freedom of Information and Protection of Privacy Act*, RSA 2000, c F-25 (the FOIP Act). As with section 16(1) of the FOIP Act, all criteria under section 19(1) of ATIA must be met before a public body is required to withhold information under it (*Imperial Oil Limited v Calgary (City)*, 2013 ABQB 393 at para. 89).

Section 19(1)(a)

[para 14] I do not make any findings regarding section 19(1)(a). I find that the records were either not supplied in confidence as required by section 19(1)(b) or that the Third Party has failed to establish that any of the harms in section 19(1)(c) can reasonably be expected if its information is disclosed.

Section 19(1)(b)

[para 15] The records at issue consist of a signed contract, a draft contract, e-mails between the Third Party and the Public Body, invoices and receipts, and a letter between the Thid Party and the Public Body.

[para 16] I discuss all records other than the signed contract and draft contract under section 19(1)(c) and find that they do not meet any of the criteria under section 19(1)(c). Accordingly, I do not consider whether those records were supplied in confidence as required under section 19(1)(b).

Signed Contract/Draft Contract

[para 17] In general terms, the contract sets out the agreement between the Public Body and the Third Party under which the Third Party operates the collision reporting centre.

[para 18] The Public Body's position is that negotiated contractual terms were not supplied by the Third Party; rather those terms were the result of negotiations between the Public Body and the Third Party.

[para 19] The Third Party does not differentiate between the draft contract and the signed contract in its arguments; this is likely the result of the Public Body's decision to withhold the draft contract under another section of ATIA. The Third Party argues that it took ownership of the drafting process and eventual contract terms, all of which were supplied by the Third Party. That appears to be the case. With the exception of a small amount of information in section G. of the contract – which is withheld as subject to legal privilege – I can review and compare the entire draft and signed contracts; they appear to be identical.

[para 20] The Third Party acknowledges that information which is negotiated between a public body and a third party is generally *not* considered to be supplied to a public body. The Third Party argues that the content of the contract is captured by two exceptions to the general case. The first exception is for information in a relatively unchanged state or that is immutable information. The second is in cases where disclosure would enable an applicant to make an accurate inference about information supplied to a public body during negotiation. Both exceptions are discussed in Orders 2000-005 at paras. 85-91 and F2005-030 at para. 24.

[para 21] Both exceptions were more recently discussed in Order FOIP2025-R-02.

[para 22] As in numerous decisions before it, the external adjudicator in FOIP2025-R-02 found that negotiated information is not considered to be supplied to a public body (FOIP2025-R-02 at paras. 25 and 26.)

[para 23] The external adjudicator then reviewed cases addressing the exceptions and what sort of information is considered immutable or would permit accurate information about underlying non-negotiated confidential information. He reviewed the findings in *Imperial Oil Ltd. v. Alberta (Information & Privacy Commissioner)*, 2014 ABCA 231 (*Imperial Oil*); *ABC Benefits Corporation v. Alberta (Information and Privacy Commissioner)*, 2015 ABQB 662 (*ABC Benefits*); and, *ABC Benefits Corporation v. Alberta (Information and Privacy Commissioner)*, 2022 ABQB 276. He referred to Order F2019-17 at para. 95, which I find particularly relevant to the contract; it states:

> Immutable information is information that, by its nature and in the given context, is not susceptible to change; it is not information that *could have* changed but did not (see Order F2012-15, citing BC Order F11-27). Conditions proposed by one party and accepted by a public body without changes is reflective only of the tendering process chosen by the public body; it does not change the nature of the information contained in the proposals. In other words, the fact that a public body may not have made a counter-offer on a proposal does not mean that the proposal conditions were immutable. To say that proposal conditions are immutable is to say that the bidder could not have offered conditions other than those it did, in fact, offer. As stated in BC Order F11-27 (at para. 13):
>
>> In other words, information may originate from a single party and may not change significantly – or at all – when it is incorporated into the contract, but this does not necessarily mean that the information is “supplied.” The intention of s. 21(1)(b) is to protect information of the third party that is not susceptible of change in the negotiation process, not information that was susceptible to change, but, fortuitously, was not changed.

[para 24] The following passage from Order F2015-03 at para. 46 explaining *Imperial Oil* was also expressly considered:

> The Court of Appeal’s discussion regarding supplied information was specifically concerned with reports attached to the remediation agreement, which were created by consultants and not up for negotiation. In other words, the content of those reports would not change regardless of the discussions that led to the remediation agreement. I agree with the Public Body that, although it used different language, the Court concluded that the reports attached to the remediation agreement consisted of information that

was either immutable (because the content of the reports were not going to change) or that they were comprised of underlying non-negotiated confidential information supplied by the third party.

[para 25] The External Adjudicator in FOIP2025-R-02 concluded, at paras. 32 and 33:

> These cases stand for the proposition that immutable or non-negotiated information that ends up as an agreed term in a contract does not thereby become negotiated for the purpose of section 16(1).
>
> However, neither of the decisions in *Imperial Oil* nor the 2015 Court Decision rejected the long-standing principle that fees for service in a contract are generally accepted to be negotiated between the parties. Rather, these decisions appear to accept the premise, set out in the case law cited above, that fees for service set out in an agreement or contract are generally found to be negotiated, rather than supplied by one party to another, even when the prices in the agreement are accepted from a proposal without change. The exceptions to this general rule are for information that is immutable or reveals underlying non-negotiated confidential information. The decisions in *Imperial Oil* and the 2015 Court Decision primarily address what kind of information falls within these exceptions to the general rule.

[para 26] The 2015 Court Decision in the above passage is *ABC Benefits*.

[para 27] I agree with the External Adjudicator's findings on the exceptions.

[para 28] Upon reviewing the contract in the records, I find that it does not contain any immutable information or any information that would reveal or permit accurate inference of any non-negotiated information.

[para 29] As noted in the passage from Order F2019-17 above, the fact that there was no change between the draft contract and the signed contract does not render the information therein immutable. The Public Body may have accepted the draft as suitable for execution, but the draft was susceptible to negotiation.

[para 30] Particular to the information in the draft and signed contracts, the Third Party makes general arguments about its significance to the Third Party without pointing to specific sections or information in the contract; it states:

> The Contract at issue, contained within the Records, was drafted at the sole initiative and expense of Spruce Grove ASSL and Accident Support Services International Ltd. (collectively "**ASSI**"), including the engagement of external legal and subject-matter expertise. The structure, language, and content of the agreement reflect ASSI's

proprietary business model, commercial strategies, and operational methodologies, rather than standardized or publicly available contractual terms.

Importantly, Spruce Grove ASSL was engaged as a sole-source contractor. The sole-source nature of the procurement underscores that the Contract was developed to reflect unique capabilities and approaches that are specific to Spruce Grove ASSL and not readily replicated by other market participants without the benefit of access to ASSL's proprietary systems and contracts, which includes but is not limited to financial, technical, and operational information of ASSI. As a result, the contractual terms are closely tied to Spruce Grove ASSL's distinctive commercial and technical expertise, rather than being generic or interchangeable.

As applied to the Records in this case, the Contract includes business plans and customer records. More specifically, the Contract contains commercial information in the form of obligations of the operator regarding collision reporting services, allocation of responsibilities, and performance standards. These are contractual mechanisms unique to Spruce Grove ASSL's business operations that easily satisfy the definition of "commercial information" under section 19, as evidenced by the analysis in *St Albert.* These processes are also specific to how Spruce Grove ASSL provides its services, and thereby constitutes "technical information"; as per *Alberta Health,* information about the methods that a third party provides its services constitutes both commercial and technical information.

The fact that the Contract was prepared and supplied by Spruce Grove ASSL rather than generated by the public body, highlights its proprietary character. The content reflects internal knowledge and strategic choices that ASSI does not make available outside confidential commercial relationships, and which provide it with a competitive advantage in the marketplace. As such, the contents of the Contract clearly include Spruce Grove ASSL's "business plans" and thus constitute "commercial information".

By virtue of the Contract terms supplied solely from Spruce Grove ASSL, Spruce Grove ASSL took ownership of the drafting process and the eventual Contract terms, all supplied by Spruce Grove ASSL, supports the conclusion that the information constitutes the commercial, and technical information of a third party, as contemplated by section 19(1)(a). The Records are not generic or boilerplate in nature; rather, they express Spruce Grove ASSL's distinctive approach to delivering its services and managing commercial risk.

Furthermore, the Contract clearly references the exchange in which Spruce Grove ASSL would provide its services to the Public Body. It is public knowledge that Spruce Grove ASSL does not charge police or municipalities for their services and thus the exchange is not monetary in nature. As such, the exchange of value for the services. Spruce Grove ASSL submits that this would constitute "financial information" as per *Ponoka.* By

> extension, this system between the Public Body and Spruce Grove ASSL clearly constitute both financial and commercial information as per the *Alberta Health* decision.

[para 31] While I do not doubt the sincerity of the Third Party's position, after reviewing the contract in its entirety, the Third Party's arguments appear to be a glossy description of a document that, on its face, consists of nothing more than the agreed upon terms between the Public Body and Third Party, from the beginning to the end. There is not, for example, any information similar to reports in *Imperial Oil* which contained information that would not change no matter how negotiations proceeded. Further, what the Third Party refers to as its "proprietary business model, commercial strategies, and operational methodologies," or "business plans" can only refer to the terms on which it agreed to operate the collision centre as specified in the contract. There is nothing else in the contract to which this description could possibly be referring. The external adjudicator in FOIP2025-R-02 considered similar arguments relative to similar contractual terms and found that the evidence did not support a finding of "immutability" or that underlying methodologies could be deduced from the information.; he stated at paras. 54 – 56:

> ABC agreed to meet Alberta Health's requirements as to the services ABC was required to deliver. Revealing descriptions of those services is very different from revealing *how* ABC intended or proposed to deliver those services, that is, its business methodologies or processes. The information in question here does not reveal any such methodologies or processes.
>
> In addition, I find that there is no basis to conclude that this information is immutable. Again, it is simply not credible to argue that the details of the services ABC was to provide to Alberta Health were not capable of negotiation, even if in fact there was no such negotiation. Further, once again, this conclusion is supported by Alberta Health's submission that Alberta Health supplied the information to ABC.
>
> Even if these contractual terms were the "most" that ABC was capable of delivering, that fact (if it is a fact) is not revealed by the information in question here. Further, Alberta Health could have agreed to lower standards, thus supporting the conclusion that this information is not immutable or information that would reveal non-negotiated information supplied by ABC.

[para 32] The terms of the contract in this case are of the same nature as those in the agreement discussed in the above passage from FOIP2025-R-02. The terms disclose what the Third Party must do and other contractual obligations to the Public Body, but not how it must or intends to do them, what strategies it will engage, or details of any applicable business model. I find that none of the information in the contract is immutable or would reveal or permit accurate inference of any non-negotiated information supplied by the Third Party.

[para 33] For clarity, I note that the foregoing reasoning applies to the financial figure in section B. 1. j. of the contract. That section of the contract refers to costs, and I have considered whether it constitutes a fixed cost, which would be immutable information as discussed in *ABC Benefits* at para. 64. The wording of the contract makes clear that it is not a fixed cost but rather is a negotiated amount to be paid in respect of shared costs that forms part of the agreed upon terms between the Third Party and the Public Body. It is the commercial equivalent of an agreement between a homeowner and a boarder requiring the boarder to contribute towards utilities. The cost of the utilities may be fixed in a sense, but the boarder's contribution to them is an agreed upon number.

[para 34] I have considered that there is arguably a distinction between the signed contract and the identical, but unsigned, draft contract. The signed contract is certainly the result of completed negotiation while the draft contract, until signed, presumably could still have been modified. In this case, if there is a distinction, it is one without a meaningful difference as far as section 19(1)(b) is concerned. Every signed contract is an unsigned contract immediately before receiving signatures. As a practical matter the signature would be applied only after agreement to what is in the contract has been reached. Without any indicator of ongoing negotiation, the unsigned contract represents no more than what the signed contract does: what the Third Party and the Public Body negotiated and agreed to. Accordingly, I find that neither the signed contract nor the unsigned draft was supplied to the Public Body.

[para 35] In light of the above, I find that the Public Body is not required to withhold the draft contract or signed contract under section 19(1) of ATIA.

Section 19(1)(c)

[para 36] Since I have already found that the Public Body is not required to withhold the draft and signed contracts under section 19(1) by reason that they were not supplied under section 19(1)(b), I do not consider them further here. This discussion concerns the remainder of the records: invoices and receipts, the letter, and e-mails.

[para 37] The Third Party argues that disclosure will result in the harms in section 19(1)(c)(i) and (ii) of ATIA.

[para 38] Prior to considering the Third Party's arguments in respect of the information in the records, I address the applicable evidentiary standard that apply in respect of section 19(1)(c).

[para 39] Regarding section 19(1)(c), the Third Party cites *Ontario (Ministry of Community Safety & Correctional Services) v Ontario (Information & Privacy Commissioner)* 2014 SCC 31 for the principle that where privacy legislation uses the wording "reasonable expectation of probable harm" the harm that will result from disclosure must be beyond merely possible or speculative. The Third Party then asserts that since section 19(1) refers to "significant" harm rather than "probable" harm,

it is likely that the harm must be even more certain to occur. The Public Body observes that the standard is significant harm, but does not comment on whether that means that the prospect of harm must be more certain than probable.

[para 40] Numerous decisions concerning section 16(1) of the FOIP Act found that all section 16(1)(c) of that Act required was evidence of a reasonable expectation harm (See, for example, Order F2005-009 at para. 69 and F2008-018 at para. 90). That standard was upheld in *Qualicare Health Service Corporation v. Alberta (Office of the Information and Privacy Commissioner)*, 2006 ABQB 515 (*Qualicare*) at para. 66. There is no substantial difference between section 16(1) of the FOIP Act and section 19(1) of ATIA, and I see no reason why the same standard upheld in *Qualicare* does not continue to apply. Regarding the term "significant" as it appears in section 19(1)(c)(i), that term speaks to degree of expected harm rather than a likelihood of harm.

[para 41] As to what constitutes sufficient evidence of expected harm, the Court of Queen's Bench (Now King's Bench) stated in *Agriculture Financial Services Corporation v Alberta (Information and Privacy Commissioner)*, 2012 ABQB 397, at paragraph 59:

> I find that AFSC did not provide any evidence of "harm", but rather expected that the adjudicator could, or should, have speculated as to potential harm. Generalized assertions as to harm are not evidence. The Adjudicator's decision is entitled to deference. ACFC did not meet the burden of proof under s. 71(1) of the Act.

[para 42] Order F2012-15 noted at para. 101 the following from the federal court in *Canada (Prime Minister) v. Canada (Information Commissioner*), [1992] FCJ No. 1054 at para. 118:

> While no general rules as to the sufficiency of evidence in a section 14 case can be laid down, what the Court is looking for is support for the honestly held but perhaps subjective opinions of the Government witnesses based on general references to the record. Descriptions of possible harm, even in substantial detail, are insufficient in themselves. At the least, there must be a clear and direct linkage between the disclosure of specific information and the harm alleged. The Court must be given an explanation of how or why the harm alleged would result from disclosure of specific information. If it is self-evident as to how and why harm would result from disclosure, little explanation need be given. Where inferences must be drawn, or it is not clear, more explanation would be required. The more specific and substantiated the evidence, the stronger the case for confidentiality. The more general the evidence, the more difficult it would be for a court to be satisfied as to the linkage between disclosure of particular documents and the harm alleged.

[para 43] The Public Body's arguments with respect to harm under section 19(1)(c)(i) and (ii) directly address the contract between it and the Third Party, but not the other types of records. Upon review of the e-mails and the letter it is not self-evident that harm would result if they

were disclosed. The e-mails are minimal communications of the kind that must take place in order complete any contract, i.e. little more than confirmation that a contract has been agreed to and must be signed. The letter is of similar content except with respect to duration of the contract.

[para 44] The invoices and receipts disclose some financial terms under which the Third Party operates the collision reporting centre. Those terms are reflected in the contract in section B. 1. j. However, the information is again minimal and in the absence of a detailed explanation of how disclosing these documents stands to significantly harm the Third Party's position or result in undue financial loss or gain, I am left only to speculate about the likelihood of those harms. I cannot conclude that disclosure poses a reasonable expectation of harm.

[para 45] In light of the above, the Public Body is not required to withhold any information on the invoices and receipts, e-mails, and letter under section 19(1).

V. ORDER

[para 46] I make this Order under section 64 of ATIA.

[para 47] I order the Public Body to disclose the records to the Applicant without withholding any information under section 19(1) just as it had proposed to do prior to the Third Party's unsuccessful challenge to that decision.

[para 48] I further order the Public Body to notify me in writing, within business 50 days of receiving a copy of this Order, that it has complied with the Order.

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John Gabriele
Adjudicator

[1] See: https://accsupport.com/locations/spruce-grove/