ALBERTA

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

ORDER ATIA2026-TEI-14

November 10, 2026

City of Calgary

Case File Number 044527

Office URL: www.oipc.ab.ca

Summary: The City of Calgary (the Public Body) made 3 decisions to extend the timelines for responding to the Applicant's access request under sections 16(1)(b), 16(2) and 16(4) of the *Access to Information Act* (ATIA or the Act). The Applicant submitted a request for review regarding the third extension decision which was made under 16(4). The Adjudicator confirmed the extension decision taken under section 16(4) for the third party records, and found the Public Body was already in deemed refusal under section 13(2) for the remainder of the access request.

Statutes Cited: AB: *Access to Information Act*, S.A. 2024, c. A-1.4.; Access to Information Act Regulation, Alta Reg 133/2025; *Freedom of Information and Protection of Privacy Act,* R.S.A. 2000, c. F-25 (repealed); *Interpretation Act*, RSA 2000, c I-8; *Protection of Privacy Act* S.A. 2024, c. P-28.5; *Public Service Act* RSA 2000, c P-42; Public Service Employment Regulation; *Regulations Act*, RSA 2000, c R-14; Regulations Act Regulation, AR 288/1999.

Authorities Cited: AB: ATIA2026-TEI-06, ATIA2026-TEI-08, ATIA2026-TEI-11, ATIA2026-DEI-02, F2011-003.

Cases Cited: *R v Nguyen,* 2026 SCC 10; *Rizzo & Rizzo Shoes Ltd*. (Re), [1998] 1 S.C.R. 27

Other Sources Cited: Alberta's Christmas Closure Directive; Alberta's Paid Holidays Directive; University of Calgary Faculty of Law ABLawg.ca

TABLE OF CONTENTS

I. BACKGROUND 3

II. ISSUE 3

III. DISCUSSION OF ISSUE 3

First Preliminary Issue – Delegation of Authority 3

Second Preliminary Issue – The calculation of time under ATIA *4*

1) Business days exclude a "Saturday" under section 1(c)(i) of ATIA 4

2) Business days exclude "a holiday" under section 1(c)(ii) of ATIA 4

3) Business days exclude "a day when Government of Alberta offices are closed as part of the Government of Alberta's Christmas closure" under section 1(c)(iii) of ATIA 5

a) What is the Government of Alberta's "Christmas closure"? 5

b) The Government of Alberta's "December Floater" is a "business day" under ATIA 9

4) The Public Body's calculation of time for the request at issue in this matter 10

Issue: Did the head of the Public Body properly extend the time for responding to the request as permitted by section 16 of the Act (ATIA)? 11

1) Application of section 16 of ATIA 11

2) The statutory requirements for a time extension decision under section 16(5) 12

3) Was section 16(4) of ATIA applied properly? 15

a) Section 16(4) of ATIA applies to third party information 15

b) A decision to extend time under section 16(4) applies only to records that are subject to a third party notice under section 35 17

c) A decision to extend time under section 16(4) cannot apply to records that are not subject to a third party notice 18

4) Summary of Findings 20

IV. ORDER 20

APPENDIX A 21

I. BACKGROUND

[para 1] On September 22, 2025, the City of Calgary (the Public Body) received a request for access to information from the Applicant under the *Access to Information Act* (ATIA or the Act). On October 29, 2025, the Public Body extended its initial timeline for responding to the request by 30 business days under ATIA section 16(1)(b). On December 18, 2025, the Public Body extended its timeline by an additional 140 business days pursuant to ATIA section 16(2), specifically under 16(1)(b). On July 14, 2026, the Public Body made a third decision to extend its timelines under section 16(4) of ATIA.

[para 2] On August 4, 2026, a request for review was submitted to the Office of the Information and Privacy Commissioner (OIPC) by the Applicant, who objected to the third extension dated July 14, 2026 issued by the Public Body under section 16(4). The Applicant confirmed on August 4, 2026 that no records had been provided in response to the access request. The Notice of Inquiry that was sent to the parties confirmed the expedited inquiry would be reviewing the third extension decision. The matter proceeded directly to inquiry without mediation or investigation as is the OIPC's practice under ATIA when reviewing a decision to extend time where a response has not yet been provided to an applicant.

[para 3] The Applicant did not provide a submission in response to the Public Body's submission, and they were not required to do so in this inquiry.

II. ISSUE

Did the head of the Public Body properly extend the time for responding to the request as permitted by section 16 of the Act (ATIA)?

III. DISCUSSION OF ISSUE

First Preliminary Issue – Delegation of Authority

[para 4] Section 16 of ATIA authorizes the head of a public body to extend the time for responding to an access request. Upon reviewing supporting documents provided by the Public Body, it was confirmed that the third section 16 decision was not made by the head of the Public Body, but by the Analyst, Access to Information and Investigations. As the third section 16 decision was not made by the head, I had to confirm the decision-maker had been properly delegated the authority to make the decision pursuant to ATIA section 87, which states:

> *87(1) The head of a public body may delegate to any person any power, duty or function of the head under this Act, except the power to delegate under this section.*
>
> *(2) A delegation under subsection (1) must be in writing and may contain any conditions or restrictions the head of the public body considers appropriate.*

[para 5] In its inquiry submission, the Public Body provided a copy of its Delegation of Authority table signed by its head on July 16, 2025, which confirms that the Analyst, Access to Information and Investigations is delegated the duties of the head for the purposes of ATIA section 16(4). As such, I am satisfied that the decision-maker had the proper delegated authority from the head under section 87 to make the third section 16 decision under review in this inquiry.

Second Preliminary Issue – The calculation of time under ATIA

[para 6] As the Applicant requested a review only of the third time extension decision, I will review the first two time extensions only to the extent necessary to ensure that the revised response due dates were calculated in compliance with the statutory timelines. For the reasons outlined below, some of my time calculations are different from those of the Public Body's. For a visual representation of the time calculations, I have attached a manual calendar count in Appendix A at the end of this Order.

[para 7] The calculation of timelines in ATIA is based on the definition of a ''business day" in section 1(c). A business day is defined by the days it excludes, that is, a "business day" is any calendar day that is not excluded in subsections 1(c)(i) to (iii):

> *1 In this Act,*
>
> *…*
>
> *(c) "business day" means a day other than*
>
> *(i) a Saturday,*
>
> *(ii) a holiday, or*
>
> *(iii) a day when Government of Alberta offices are closed as part of the Government of Alberta's Christmas closure;*

1) Business days exclude a "Saturday" under section 1(c)(i) of ATIA

[para 8] This exclusion is straightforward. A Saturday is never a business day under ATIA, therefore, Saturdays are always excluded from a public body's calculation of business days.

2) Business days exclude "a holiday" under section 1(c)(ii) of ATIA

[para 9] The word "holiday" in section 1(c)(ii) of ATIA takes its definition from section 28(1)(x) of the *Interpretation Act* which states:

> *28(1) In an enactment,*
>
> *…*
>
> *(x) "holiday" includes*
>
> *(i) every Sunday,*

> *(ii) New Year's Day, Alberta Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, Labour Day, Remembrance Day and Christmas Day,*
>
> *(iii) the birthday or the day fixed by proclamation for the celebration of the birthday of the reigning sovereign,*
>
> *(iv) December 26, or when that date falls on a Sunday or a Monday, then December 27,*
>
> *(v) any day appointed by proclamation of the Governor General in Council or by proclamation of the Lieutenant Governor in Council for a public holiday or for a day of fast or thanksgiving or as a day of mourning, and*
>
> *(vi) with reference to any particular part of Alberta, the day in each year that may by proclamation of the Lieutenant Governor in Council be appointed as a public holiday for that part of Alberta for the planting of forest or other trees;*

[para 10] Taking ATIA sections 1(c)(i) and (ii) together, business days exclude weekends (Saturdays and Sundays) and the other holidays as set out in section 28(1)(x) of the *Interpretation Act*. Although the use of the word "includes" in section 28(1)(x) of the *Interpretation Act* indicates that the days defined as holidays are not exhaustive (that is, there could be other days considered a holiday), there is no indication in ATIA that the word "holiday" was intended to include any days other than those considered a "holiday" in the *Interpretation Act.* As such, other days that are commonly understood to be a holiday in Alberta, but are not included as a "holiday" in section 28(1)(x) of the *Interpretation Act*, such as Alberta Heritage Day[1] and the more recently recognized National Day for Truth and Reconciliation[2] are considered a "business day" under ATIA.

3) Business days exclude "a day when Government of Alberta offices are closed as part of the Government of Alberta's Christmas closure" under section 1(c)(iii) of ATIA

a) What is the Government of Alberta's "Christmas closure"?

[para 11] For ATIA timelines that fall over the Christmas holiday period in December, the exclusion from the definition of "business day" of "a day when Government of Alberta offices are closed as part of the Government of Alberta's Christmas closure" in section 1(c)(iii) of ATIA can be confusing and complicated.

[para 12] The Government of Alberta's "Christmas closure" is not defined in the *Interpretation Act*. On June 11, 2025, when ATIA came into force, the legislative authority for the "Government of Alberta's Christmas closure" was derived from section 62.1 of the Public Service Employment Regulation (PSE Regulation), which is a regulation of the *Public Service Act*. At that time, the PSE Regulation read as follows [emphases added]:

---

[1] ATIA2026-TEI-11 at paras 15-19. Although Alberta Heritage Day is recognized in section 2 of the Alberta *Human Rights Act*, it is not currently recognized as a "holiday" under section 28(1)(x) of the *Interpretation Act.*

[2] The National Day for Truth and Reconciliation was established as a federal statutory holiday in 2021 and is honored in Alberta on September 30. However, it is only an optional holiday that employers may choose to recognize in Alberta. It is not currently recognized as a "holiday" under section 28(1)(x) of the *Interpretation Act*.

62.1 Entitlement for Christmas Closure

(1) Christmas Closure will result in closure of government offices and non-continuous operations as outlined below:

(a) When Christmas Day falls on a Sunday, the Christmas closure will occur on December 29 and 30;

(b) When Christmas Day falls on a Monday, the Christmas closure will occur on December 28 and 29;

(c) When Christmas Day falls on a Tuesday, the Christmas closure will occur on December 27, 28 and 31;

(d) When Christmas Day falls on a Wednesday, the Christmas closure will occur on December 24, 30 and 31;

(e) When Christmas Day falls on a Thursday, the Christmas closure will occur on December 29, 30 and 31;

(f) When Christmas Day falls on a Friday, the Christmas closure will occur on December 29, 30 and 31; and

(g) When Christmas Day falls on a Saturday, the Christmas closure will occur on December 29, 30 and 31.

[para 13] As such, when ATIA came into force on June 11, 2025, the Government of Alberta's "Christmas closure" was dependent upon the day of the week on which Christmas Day (December 25) fell.

[para 14] However, a further complication to excluding the Government of Alberta's "Christmas closure" days to determine what is a "business day" is the fact that, as of the date of this Order, section 62.1 of the PSE Regulation has been amended.[3] It no longer refers to a "Christmas closure" but to a "December Closure" as follows [emphases added]:

62.1 Entitlement for December Closure

(1) December Closure will result in closure of government offices and non-continuous operations as outlined below:

(a) When Christmas Day falls on a Sunday, the December Closure will occur on December 29 and 30;

(b) When Christmas Day falls on a Monday, the December Closure will occur on December 28 and 29;

(c) When Christmas Day falls on a Tuesday, the December Closure will occur on Dec 27, 28 and 31;

[3] Public Service Employment Regulation (alberta.ca)

(d) *When Christmas Day falls on a Wednesday, the December Closure will occur on December 24, 30 and 31;*

(e) *When Christmas Day falls on a Thursday, the December Closure will occur on December 29, 30 and 31;*

(f) *When Christmas Day falls on a Friday, the December Closure will occur on December 29, 30 and 31; and*

(g) *When Christmas Day falls on a Saturday, the December Closure will occur on December 29, 30 and 31.*

Sec 62.1(1)(a-g) Amend M.O. 03/2025, Oct-23-2025

[para 15] The publicly available version of the PSE Regulation, as of the date of this Order, indicates that section 62.1 was amended by Ministerial Order 03/2025 on October 23, 2025. As the PSE Regulation is subordinate legislation to the *Public Service Act*, the responsible Ministry is the Public Service Commission. The Public Service Commissioner's Ministerial Order 03/2025 is not publicly available.

[para 16] As the Public Service Commissioner's Ministerial Order 03/2025 is not publicly available to review, an assumption must be made, on the basis of comparing the language between section 62.1 of the PSE Regulation as it was when ATIA came into force on June 11, 2025, and the amendment by the non-publicly available Ministerial Order 03/2025, that, to the extent that section 62.1 was amended, it was only to rename the "Christmas closure" to the "December Closure".

[para 17] This issue is further confused by the fact that, as of the date of this Order, the Government of Alberta's Christmas Closure Directive still refers to a "Christmas closure" but states that its governing authority is the PSE Regulation.[4]

[para 18] The concern regarding the definition of a "business day" in ATIA (and the *Protection of Privacy Act* [POPA]) being subject to the PSE Regulation is further exacerbated by the lack of transparency regarding these regulatory amendments. In Alberta, generally, the *Regulations Act sets* out legal requirements for the enactment of regulations, including their filing and publication. The PSE Regulation is a regulation of the *Public Service Act;* however, pursuant to section 17(1)(i) of the Regulations Act Regulation, all regulations made under the *Public Service Act* are exempt from the application of the *Regulations Act.*[5] Section 17(1)(i) of the Regulations Act Regulation states:

[4] Christmas closure directive | Alberta.ca

[5] This discussion is concerned primarily with the issues surrounding how to calculate a "business day" in ATIA. Legal commentators in Alberta have spoken regarding uncertainty that can be created through unpublished Ministerial Orders. See, for example, ablawg.ca: A Blog with Two Titles: (1) The Current Status of Monitoring, Measurement and Verification Requirements for Carbon Capture and Storage Projects in Alberta, and (2) When Does a Ministerial Order Have to be Published?, Nigel Bankes, September 7, 2023 and COVID-19 and the Exercise of Legislative Power by the Executive, Shaun Fluker, April 22, 2020.

17(1) The following are exempt from the application of the Act:

[…]

(i) all regulations made under the Public Service Act

[para 19] The exemption of the PSE Regulation from the *Regulations Act* creates uncertainty because calculating "business day" timelines correctly is of critical importance for public bodies subject to ATIA (and POPA) as well as to the individuals exercising their quasi-constitutional rights under these Acts. It is of assistance to no one when calculating the most basic unit of time in ATIA, a "business day", is complicated and subject to a definition in a regulation that itself is exempted from the usual requirements of regulations under the *Regulations Act* and can therefore be changed without any notice or publication at any time. That is what appears to have occurred on October 23, 2025 via the Public Service Commissioner's Ministerial Order 03/2025.

[para 20] The issue raised by the changing of the name from "Christmas closure" to "December Closure" in section 62.1 of the PSE Regulation is that the calculation of a business day under ATIA (as well as POPA) depends on the Government of Alberta's "Christmas closure", which appears to have not existed by that name since October 23, 2025, when section 62.1 of the PSE Regulation was amended via a non-public Ministerial Order. This issue requires an exercise of statutory interpretation to determine what is meant by the exclusion of "a day when Government of Alberta offices are closed as part of the Government of Alberta's Christmas closure" from the definition of "business day" in section 1(c)(iii) of ATIA.

[para 21] In accordance with the modern approach to statutory interpretation, the words of the statute must be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act and the intention of the Legislature.[6] As noted by Commissioner McLeod in ATIA2026-DEI-02[7], ATIA must be given a broad and liberal interpretation by public bodies when interpreting its provisions to achieve its aims. Additionally, section 10 of the *Interpretation Act*, requires an enactment to be construed as being remedial, and shall be given the fair, large and liberal construction and interpretation that best ensures the attainment of its objects.

[para 22] The text of section 1(c)(iii) of ATIA excludes "the Government of Alberta's Christmas closure" from the definition of "business day". Under a strictly literal interpretation of ATIA, an argument can be made that as there are no longer any days where the Government of Alberta offices are closed as part of the Government of Alberta's "Christmas closure" and section 1(c)(iii) of ATIA does not need to be considered any further in calculating business days. However, the modern approach to statutory interpretation requires more than a literal interpretation; it requires "that even superficially plain text always be read in context and in light of its purpose".[8]

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[6] Rizzo & Rizzo Shoes Ltd. (Re), [1998] 1 S.C.R. 27

[7] ATIA2026-DEI-02 at para 5

[8] *R v Nguyen,* 2026 SCC 10 at paras 80 and 133

[para 23] The context of ATIA in which the Government of Alberta's "Christmas closure" appears is in the definition of "business day" in section 1(c). These excluded days are generally understood to be days when Government of Alberta offices are not open, also including Saturdays and holidays, and are excluded from being counted as business days under ATIA.

[para 24] Finally, an exercise in statutory interpretation requires a review of the intention of Legislature. The calculation of days of the "Christmas closure" is based on the day of the week on which Christmas Day falls. This calculation remains the same under section 62.1 of the amended PSE Regulation's "December Closure". Whether a closure is called a "Christmas closure" or a "December Closure", the overarching fact is that the Government of Alberta offices are closed during that time period. In my view, the Legislature's intent of excluding the Government of Alberta's "Christmas closure" from ATIA was to ensure that access to information requests were handled in a timely manner, but not on an unreasonable timeline. The Legislature did not intend to require public bodies to respond to access requests on days when Government of Alberta offices are not open.

[para 25] This finding is further supported by the fact that, as of the date of this Order, the Government of Alberta still has a "Christmas closure directive" publicly available online,[9] which contains the same language regarding the "Christmas closure" (not a "December Closure") as the PSE Regulation did before it was amended by Ministerial Order 03/2025.

[para 26] In conclusion, as of the date of this Order, I find that the days of the Government of Alberta's "Christmas closure" in section 1(c)(iii) of ATIA are the same as those of the Government of Alberta's "December Closure" as set out in section 62.1 of the PSE Regulation.

b) The Government of Alberta's "December Floater" is a "business day" under ATIA

[para 27] ATIA excludes the Government of Alberta's "Christmas closure" from the definition of "business day" in section 1(c). It does not exclude the "December Floater" which usually coincides with days adjacent to the former Christmas closure/current December Closure.

[para 28] The "December Floater" may create additional confusion for those public bodies subject to the paid holidays as set out in section 62 of the PSE Regulation. Section 62(1)(k) of the PSE Regulation, as published on the day that this Order is issued, provides a paid day off called the "December Floater" (this "December Floater" provision was also amended on October 23, 2025 by Ministerial Order 03/2025, although in the absence of the Ministerial Order, it is unknown what the amendment was). Although the "December Floater" is not defined in the PSE Regulation, as of the date of this Order, it is defined in the Government of Alberta's "Paid holidays directive" as a "Christmas floater" as follows:[10]

[9] Christmas closure directive | Alberta.ca
[10] https://www.alberta.ca/paid-holidays-directive

> Christmas floater, to be observed on December 24 if Christmas Day falls on a Tuesday, Thursday, Friday or Saturday. If Christmas Day falls on a Monday or Wednesday, the Christmas floater shall be observed on December 27. If Christmas Day falls on a Sunday, the Christmas floater shall be observed on December 28.

[para 29] In summary, while the December Floater day occurs adjacent to days excluded from the calculation of business days in ATIA, the December Floater is not excluded, and is therefore a business day under ATIA.

4) The Public Body's calculation of time for the request at issue in this matter

[para 30] From the Public Body's inquiry submission and supporting documents, the access request was received on September 22, 2025, so the initial timeline to respond to the access request after issuing and resolving two fee estimates was November 6, 2025 (this date was confirmed by the Public Body).

[para 31] On October 29, 2025, the Public Body extended its response due date by an additional 30 business days, revising its due date to December 19, 2025. It is unclear why the Public Body indicated its response due date was December 18, 2025. The discrepancy may be due to the Public Body counting November 11, 2025 (Remembrance Day) as a business day instead of a "holiday", as it is defined in section 28(1)(x)(ii) of the *Interpretation Act*. In any event, the Applicant was not prejudiced because the Public Body calculated its response date to be one day earlier than required under ATIA.

[para 32] The initial response due date for the access request was November 6, 2025. The first 30 business day extension counts business days starting on November 7, 2025 and does not include:

- Saturdays on November 8, 15, 22, 29 and December 6 and 13, 2025; or
- Sundays on November 9, 16, 23, 30 and December 7 and 14, 2025; and
- the Remembrance Day holiday on November 11, 2025.

[para 33] Thus, using the business day count as explained above, a 30-business day extension taken from November 6, 2025 by the Public Body revised the response due date to December 19, 2025.

[para 34] On December 18, 2025, the Public Body extended its response due date for an additional 140 business days. A 140-business day extension from December 19, 2025 results in a response due date of July 20, 2026. However, the Public Body informed the Applicant that the revised due date was July 14, 2026 (not July 20, 2026). This is a discrepancy of four business days between my calculation of the revised response due date of an additional 140 business days taken after the first extension, and the Public Body's calculation. For the reasons discussed above, it is possible that the Public Body miscategorized whether certain days in December were business days or part of the Government of Alberta's "Christmas closure".

[para 35] As mentioned above, ATIA section 1(c)(iii) states a business day excludes the days when the Government of Alberta offices are closed as part of the Government of Alberta's Christmas closure.

Notably, because it is explicitly excluded from the definition of "business day", the Government of Alberta's Christmas closure must be calculated by a public body regardless of whether that public body remains open during that time period.

[para 36] In 2025, Christmas Day (December 25) fell on a Thursday. For the reasons outlined above, I have found that the current "December Closure" in the PSE Regulation excludes the same days as the "Christmas closure" referred to in ATIA. The PSE Regulation section 62.1(1)(e) states that "[w]hen Christmas Day falls on a Thursday, the December Closure will occur on December 29, 30 and 31." Therefore, pursuant to ATIA section 1(c)(iii), December 29, 30 and 31 in 2025 were when the Government of Alberta offices were closed, and thus excluded from being business days under section 1(c)(iii) of ATIA. As well, since December 26, 2025 (Boxing Day) is a holiday under section 28(1)(x)(iv) of the *Interpretation Act*, it was excluded as a business day under ATIA section 1(c)(ii).

[para 37] In its calculation of a 140 day extension from December 19, 2025, the Public Body therefore, should have excluded the following dates in addition to the Saturdays and Sundays in that period: December 25, 26, 29, 30, 31, January 1, 2026 (New Year's Day), February 16, 2026 (Alberta Family Day), April 3, 2026 (Good Friday), April 6, 2026 (Easter Monday), May 18, 2026 (Victoria Day) and July 1, 2026 (Canada Day).[11]

[para 38] The correct calculation for a 140-business day extension from December 19, 2025 is July 20, 2026. Although the Public Body's revised response date for this 140-business day extension is four business days less than the calculation, there is no negative impact on the Applicant.

[para 39] Having dealt with the preliminary issues outlined above, I can now address the issue that is before me in this inquiry as stated in the Notice of Inquiry dated August 5, 2026.

Issue: Did the head of the Public Body properly extend the time for responding to the request as permitted by section 16 of the Act (ATIA)?

1) Application of section 16 of ATIA

[para 40] The head of a public body's authority to extend the time for responding to an access request is set out in section 16 of ATIA. The relevant subsections of section 16 referenced in this matter are outlined below:

> *16(1) The head of a public body may extend the time for responding to a request for up to 30 business days if*
>
> *(a) the applicant agrees,*
>
> *(b) a large number of records are requested and more time is required to process the request, or*

[11] The dates outside of December 2025 reflect named holidays under section 28(1)(x)(ii) of the *Interpretation Act.*

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

(2) The head of a public body may extend the time for responding to a request for additional reasonable periods in a circumstance described in subsection (1)(a) to (c).

…

(4) Where the head of a public body is considering giving access to a record that may contain information

(a) described in section 19(1) or (2), or

(b) the disclosure of which may be an unreasonable invasion of a third party's personal privacy under section 20,

the head of a public body may extend the time for responding to a request or part of a request for the period of time necessary to enable the head to comply with the requirements of section 36

(5) If the time for responding to a request is extended under subsection (1), (2), (3) or (4), 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 request a review of the extension by the Commissioner.

[para 41] In this matter, the Public Body made three separate extension decisions under sections 16(1)(b), 16(2) and 16(4) which extended the response time to complete processing the access request. However, as mentioned above, it is only the third extension taken under section 16(4) that is the subject of this inquiry.

2) The statutory requirements for a time extension decision under section 16(5)

[para 42] Each instance a public body has decided to extend its timeline to respond to an access request, it must also meet the requirements of section 16(5). Section 16(5) is a mandatory provision and instructs public bodies on what they must tell an applicant when extending time limits under sections 16(1) to (4). Each extension decision made under sections 16(1) to (4) must tell the applicant the reason for the extension, when a response can be expected and that the applicant may request a review of the extension by the Commissioner.

[para 43] In its third extension decision dated July 14, 2026, pursuant to section 16(5)(a), the Public Body explained that the decision had been made to extend the response due date for the Applicant's request under section 16(4). However, the remainder of the decision does not meet the requirements of ATIA in two ways: 1) the Public Body did not clearly tell the Applicant when a response can be expected as required by section 16(5)(b), and 2) the Public Body did not tell the Applicant that a review of the extension by the Commissioner could be requested as required by section 16(5)(c). The relevant part of the decision states:

> The requested records contain information that, if disclosed, may affect the business interests of a third party. We have contacted the third party to provide them with an opportunity to make representations concerning the disclosure. We will notify you of our decision regarding your request by August 26, 2026.
>
> The response due date for your request is extended under section 16(4) of the ATIA for the time necessary to comply with the requirements of section 35 and 36.

[para 44] First, the Public Body did not tell the Applicant when a response could be expected, as required under section 16(5)(b). It stated only that it would notify the Applicant of its decision regarding the request by August 26, 2026 and stated the response due date was extended "for the period of time necessary to comply with the requirements of section 35 and 36."

[para 45] Although it appears the August 26, 2026 date is when the Public Body expected to inform the Applicant of its decision regarding the third party records, it is unclear that is the case, as it refers only to "your request" and not to the third party records. The August 26, 2026 date refers to a time limit as set out under section 36 of ATIA (as explained below). Therefore, the "decision" to be provided by August 26, 2026 is likely whether or not the head of the Public Body will give full, partial, or no access to the third party records. But it was not made clear to the Applicant that the decision to be provided by August 26, 2026 is when a response regarding the records subject to a third party notice can be expected, as required under section 16(5)(b) of ATIA.

[para 46] This issue is further complicated by the Public Body's statement that the "response due date is extended under section 16(4) of ATIA for the time necessary to comply with the requirements of section 35 and 36". If, rather than the decision date discussed above, this is what the Public Body intended to be the response date, it does not tell an applicant when a response can be expected, other than, perhaps in the broadest sense. This requires an applicant to undertake their own calculation of business days under ATIA, and as evidenced by the earlier discussion in this Order, and the discussion below on the section 35/36 process, calculating business days and response times for various parts of an access request can be complicated.[12] It is not reasonable to require an applicant to carry out a calculation that should be done by a public body, and further, as I explain below, it does not meet a public body's duty to communicate with an applicant in plain language as part of its duty to assist.

[para 47] Section 12 of ATIA sets out the duty of the head of a public body as it relates to an access request made by an applicant, including when the head makes a decision(s) to extend the timelines for a response. Section 12(1) states that "the head of a public body must make every reasonable effort to assist applicants and to respond to each applicant, openly, accurately and completely, and in accordance with the regulations."

[12] There may be a number of different outcomes once a section 35 notice has been issued, which are outlined in section 36. For example, the 30 business day period where the head of a public body must decide whether to give access or partial access to third party records can be extended during an emergency, or a third party may ask for a review of a public body's decision to give access or partial access to a record within 20 business days of the public body's decision.

[para 48] The Access to Information Act Regulation (Regulation) expands on what it means for the head under section 12(1) to "make every reasonable effort" and to respond to an applicant "openly, accurately, and completely". Section 5(1) of the Regulation clarifies requirements of the duty to assist:

> *5(1) For the purposes of section 12(1) of the Act, the duty to make every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely includes a duty to*
>
> *(a) engage with an applicant in a way that provides an applicant with every reasonable opportunity to*
>
> *(i) provide additional information to enable the public body to locate and identify a requested record within a reasonable time with reasonable effort,*
>
> *(ii) narrow a request that is overly broad, or*
>
> *(iii) make an incomprehensible request comprehensible,*
>
> *(b) respond to an applicant's questions in plain language, and*
>
> *(c) provide information to an applicant on the kinds of records the public body has in its custody or under its control and offer suggestions on how an applicant may adjust a request to enable the request to be processed.*

[para 49] As noted by Commissioner McLeod in ATIA2026-DEI-02[13], the duty to assist applies throughout every aspect of a public body's response to an access request and a public body's requirement to communicate with an applicant in plain language is not limited only to questions. A public body is required to respond to an applicant in such a way that ensures the communication the individual is reviewing or receiving is understandable to them.[14] In this matter, the Public Body's failure to provide a specific response date (or at the very least, the length of the extension in the number of business days) and instead referring an applicant to other provisions of the Act and requiring them to make their own calculations, does not meet a public body's duty to assist.

[para 50] The second reason the Public Body did not meet its requirements under section 16(5) of ATIA, is it did not tell the Applicant they have a right of review of the third extension decision. This is a requirement under section 16(5)(c). Oversight of ATIA by providing for independent reviews of decisions by this office is one of the overarching purposes of the Act (section 2(c)) and a significant aspect of the request process. If the information under section 16(5)(c) is omitted from a decision, the right of review is essentially taken away from an applicant.

[para 51] Although this third extension decision notice is deficient, even if it had been compliant with section 16(5), for the reasons below, I would have determined the Public Body was in deemed refusal for records unrelated to the third party, when the Applicant requested a review.

[13] ATIA2026-DEI-02 at paras 12-13, 92-94
[14] ATIA2026-DEI-02 at para 78

3) Was section 16(4) of ATIA applied properly?

a) Section 16(4) of ATIA applies to third party information

[para 52] Section 16(4) of ATIA applies to records that involve the interests of a third party. These interests may be records where a disclosure is harmful to the business interests of a third party (under section 19 of ATIA) or records where a disclosure may be harmful to a third party's personal privacy (under section 20 of ATIA). As noted above, section 16(4) states:

> *16(4) Where the head of a public body is considering giving access to a record that may contain information*
>
> *(a) described in section 19(1) or (2), or*
>
> *(b) the disclosure of which may be an unreasonable invasion of a third party's personal privacy under section 20,*
>
> *the head of a public body may extend the time for responding to a request or part of a request for the period of time necessary to enable the head to comply with the requirements of section 36*

[para 53] Accordingly, where third party interests are engaged and a notice is issued under section 35, under section 16(4) of ATIA, a public body may extend time to comply with section 36 of ATIA. Sections 35 and 36 of ATIA state the following:

> *35(1) When the head of a public body is considering giving access to a record that may contain information*
>
> *(a) described in section 19(1) or (2), or*
>
> *(b) the disclosure of which may be an unreasonable invasion of a third party's personal privacy under section 20, the head must, where practicable and as soon as practicable, give written notice to the third party in accordance with subsection (5).*
>
> *(2) Subsection (1) does not apply to information that the head of a public body may refuse to disclose in accordance with section 34.*
>
> *(3) Subsection (1) does not apply to a record containing information described in section 20(2)(i).*
>
> *(4) If the head of a public body does not intend to give access to a record that contains information excepted from disclosure under section 19 or 20, the head may give written notice to the third party in accordance with subsection (5).*
>
> *(5) A notice under this section must*
>
> *(a) state that a request has been made for access to a record that may contain information the disclosure of which would affect the interests or invade the personal privacy of the third party,*
>
> *(b) include a copy of the record or part of it containing the information in question or describe the contents of the record, and*

(c) state that, within 20 business days after the notice is given, the third party may, in writing, consent to the disclosure or make representations to the public body explaining why the information should not be disclosed.

(6) When notice is given under subsection (1), the head of the public body must also give the applicant a notice stating that

(a) the record requested by the applicant may contain information the disclosure of which would affect the interests or invade the personal privacy of a third party,

(b) the third party is being given an opportunity to make representations concerning disclosure, and

(c) a decision will be made within 30 business days after the day notice is given under subsection (1).

36(1) Within 30 business days after notice is given under section 35(1) or (4), the head of the public body must decide whether to give access to the record or to part of the record, but no decision may be made before the earlier of

(a) 21 business days after the day notice is given, and

(b) the day a response is received from the third party.

(2) The 30-day period referred to in subsection (1) may be extended during an emergency, disaster or other unforeseen event that results in an unplanned operational closure or interruption.

(3) If the 30-day period is extended under subsection (2), the head of the public body must

(a) notify the Commissioner of the date when the emergency, disaster or other unforeseen event has ended or when normal operations have resumed, and

(b) notify the applicant and the third party as soon as practicable

(i) when normal operations have resumed,

(ii) when a decision may be expected, and

(iii) that the applicant or third party may request a review of the extension by the Commissioner.

(4) On reaching a decision under subsection (1), the head of the public body must give written notice of the decision, including reasons for the decision, to the applicant and the third party.

(5) If the head of the public body decides to give access to the record or part of the record, the notice under subsection (4) must state that the applicant will be given access unless the third party asks for a review under Part 3 within 20 business days after that notice is given.

(6) If the head of the public body decides not to give access to the record or part of the record, the notice under subsection (4) must state that the applicant may ask for a review under Part 3.

(7) Subsection (5) does not apply where the third party has consented to the disclosure of the record or the part of the record.

[para 54] The Public Body in its inquiry submission indicated that the access request involved 4,553 pages of records and that one third party notice was issued under section 35 which involved 255 pages

of the total access request. Therefore, the third extension decision made under section 16(4) applied only to the 255 pages that were related to the third party and not the remainder of the access request. During the inquiry, from subsequent communications, the Public Body demonstrated that when it extended its time under section 16(4), it had withheld the entirety of the 4,553 responsive pages from the Applicant. However, only 255 of these pages involve a third party. The Public Body thus made the decision to withhold a response to the entire access request (all 4,553 pages) until the third party had been given the opportunity to make representations regarding the potential disclosure of the related 255 pages.

[para 55] As explained below, this is not permitted. A public body cannot extend time under section 16(4) of ATIA for records that are not the subject of a third party notice under section 35. As such, there are two discrete sets of records in this matter that require separate analysis. I will deal first with the 255 pages of records that are subject to the third party notice.

b) A decision to extend time under section 16(4) applies only to records that are subject to a third party notice under section 35

[para 56] The Public Body demonstrated that the third party was issued a section 35 notice on July 14, 2026 for 255 pages of records. Once a third party notice has been issued under section 35, the timelines are then prescribed by section 36 as explained below. An extension under section 16(4) of ATIA is permitted; however, the extension under section 16(4) only applies to the records related to the third party.[15]

[para 57] As also stated in the OIPC document entitled "Guidance Document – Expedited Inquiry – Request for Review of a Time Extension Decision (ATIA Section 16)"[16], "where the public body is issuing a notice(s) under section 35, it may extend the time for responding to a request or part of a request for the period of time necessary for the public body to comply with the requirements of section 36 (only for those records subject to the section 35 notice). Section 16(4) does not apply to the records outside of those involved in the section 35 notice."

[para 58] In this case, the Public Body's third time extension decision was made under section 16(4) because it involved records with "information that, if disclosed, may affect the business interests of a third party". The Public Body explained it had contacted the third party to provide them with an opportunity to make representations concerning the disclosure.

[para 59] Section 16(4) permits a public body to extend its time to respond to a request if a public body is considering giving access to a record that may contain information related to a third party; in this matter, for the 255 pages related to the one third party. If a public body has issued a third party notice under section 35 of ATIA, the public body may extend the time for responding to a request or part of a

[15] ATIA2026-TEI-06 at paras 18-21, ATIA2026-TEI-08 at paras 18-20

[16] Available on the Office of the Information and Privacy Commissioner website at: https://oipc.ab.ca/guidance-expedited-inquiry-request-for-review-time-extension-decision-atia-s16/

request for the period of time necessary for the public body to comply with the requirements of section 36 of ATIA.

[para 60] As the timelines to process the 255 pages of third party records are prescribed by section 36 of ATIA, I do not have discretion to alter an extension for those records. Therefore, I find the Public Body in this case was permitted to extend the time for responding in relation to the third party records, to enable it to comply with the requirements of section 36.

c) A decision to extend time under section 16(4) cannot apply to records that are not subject to a third party notice

[para 61] I will deal now with the 4,298 pages of records that are not subject to a third party notice. In this matter, after the access request was received, two fee estimates were issued and resolved, and two time extensions were taken. This revised the response due date for the access request to July 20, 2026, as explained above. On July 14, 2026, the Public Body issued its third extension decision under section 16(4).

[para 62] The repealed *Freedom of Information and Protection of Privacy Act* (FOIP) had similar sections (sections 30 and 31) as ATIA sections 35 and 36. In FOIP Order F2011-003, former Commissioner Work reviewed a similar situation where a public body withheld the entirety of a response to an access request involving 899 pages of responsive records in order for a third party to make representations on the public body's decision to disclose approximately 20 pages of records related to the third party. The former Commissioner stated the following:

> [para 6] The Public Body argues in its submission that what it is obliged to communicate to an applicant under section 31(2) after making a decision about third parties' information under section 31(1) is merely a "notice", and is not a "response" within the terms of sections 11 [Time limit for responding] and 12 [Contents of response]. On this basis, it says it is not obliged to comply with section 12 and 13 [How access will be given] in issuing this notice, and that it does not need to "respond" until after the Commissioner's review is completed.
>
> [para 7] More significantly, it also interprets the legislation such that it is not to "respond" to the Applicant (in compliance with sections 11 and 12) with respect to *any of* the requested records until after a requested review by my office with respect to the small proportion of them (to which I will refer below as the "disputed records") has been completed. It also says that this is its historical and established practice. As well, it interprets portions of Service Alberta's *FOIP Guidelines and Practices Manual* (2009) as indicating this to be an appropriate practice.
>
> [para 8] I disagree with the Public Body's practice, if it has such a practice in this or other cases, of deferring its response with respect to records that are not in dispute as a result of the section 30/31 process until after my office has completed a review with respect only to disputed records.
>
> [para 9] I do not disagree with the Public Body that a notice under section 30 /31 does not need to comply with the requirements of sections 12 and 13. The two sets of provisions speak to different things.
>
> [para 10] Sections 12 and 13 speak to the contents of a response to an applicant with respect to records that the public body has made decisions about without utilizing the section 30/31 process. They require that access be given to records to which access has been granted, and that the reasons for refusal and additional information be given respecting records for which access has been refused.

> [para 11] Sections 30/31 create a separate procedure and requirements for responding for a specific category of records – those which it is considering disclosing but which affect or may affect third party interests. This is necessary because for this latter category of records, access is not to be given despite a public body's decision to disclose, because the affected third parties must be given an opportunity to request a review by my office of the public body's decision before the records are actually released in accordance with the decision.
>
> [para 12] It does not follow, however, that because in a given case there is such a category of records, and the section 30/31 procedure comes into play, that the public body's duties under sections 12 and 13 with respect to the remaining records are automatically put on hold. Rather, in my view, each portion of the records is to be dealt with according to the category into which it falls.

[para 63] The same reasoning applies under ATIA because the third party consult provisions therein are substantially similar to those in the FOIP Act. I agree with former Commissioner Work that records are to be dealt with in the category into which it falls. The 255 pages of third party records in this matter that were subject to the ATIA section 35 notice are separate from the remainder of the 4,298 records responsive to the access request, which should be processed in accordance with the time limits under ATIA section 13.

[para 64] Section 13 of ATIA sets the time limit for a public body to respond to an applicant:

> *13(1) The head of a public body must make every reasonable effort to respond to a request not later than 30 business days after the requirements of section 7(2) have been met unless*
>
> *(a) the request has been disregarded under section 9 or declared abandoned under section 10,*
>
> *(b) that time limit is extended under section 16, or*
>
> *(c) the request has been transferred under section 17 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 65] Section 13(1)(b) of ATIA requires a public body to respond to an access request within 30 business days unless that time limit is extended under section 16. In this case, after extending the time limit to respond in two instances, the Public Body was required to respond to the Applicant by July 20, 2026 unless that time limit was extended under section 16 on or before July 20, 2026.

[para 66] However, on July 14, 2026, the Public Body extended the time to respond to the entire access request in a third extension decision under section 16(4). As explained above, a time extension under section 16(4) can apply only to third party records, therefore, the third extension under section 16(4) should have referred only to the 255 pages of third party-related records that were subject to the section 35 notice. The Public Body did not extend its time limit for the other 4,298 pages of records. As such, the response due date for the records not related to the third party remained at July 20, 2026. The Applicant subsequently submitted a request for review (and confirmation of issues) on August 4, 2026, as no response had yet been provided.

4) Summary of Findings

[para 67] Section 13(2) of ATIA requires that a failure to respond to a request within the 30-business day period, unless that time period has been extended as per section 13(1)(b), is to be treated as a decision to refuse access to the record. In this case, the time period for responding to the access request was properly extended to July 20, 2026 as explained above. Since the Public Body did not issue a further extension decision under section 16 on or before July 20, 2026 for the records not related to the third party notice, I find the Public Body failed to respond to the access request as required under section 13(1)(b).

[para 68] Accordingly, I find the Public Body is deemed to have refused access to the requested records, other than the 255 pages properly subject to the third party notice. The remedy in circumstances in which a public body has failed to respond to an applicant is to order the public body to respond in accordance with its remaining duties under the Act. However, during the course of this inquiry, the Public Body confirmed they had provided a final response to the Applicant, thus, there is nothing left for me to order.

IV. ORDER

[para 69] I make this Order under section 64(3)(a) of ATIA.

[para 70] I confirm the extension of the time limit under 16(4) that the Public Body took for the 255 pages of third party records to comply with the requirements of section 36.

[para 71] I find that the Public Body did not respond to the Applicant in accordance with section 13 of ATIA for the 4,298 records that are not related to the third party. 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.

_____

Anima Kotowski
Adjudicator – Expedited Inquiries

APPENDIX A

OIPC File 044527 Calendar Count

September 2025

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1 Labour Day *Interpretation Act* s.28(1)(x)(ii)	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	Sept 22 PB received access request	23 1	24 2	Sept 25 Fee estimate issued 3 (ATIA Regs s. 16(1))	Sept 26 Fee estimate resolved 3	27
28	29 4	30 5 National Day for Truth and Reconciliation (see Footnote 2 in Order)				

October 2025

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1 6	2 7	3 8	4

5	6 9	7 10	8 11	9 12	10 13	11
12	13 Thanksgiving Day *Interpretation Act* s.28(1)(x)(v)	14 14	Oct 15 Fee estimate issued 15 (ATIA Regs s. 16(1))	Oct 16 Fee estimate resolved 16	17 16	18
19	20 17	21 18	22 19	23 20	24 21	25
26	27 22	28 23	Oct 29 1st ext taken (+30 Business Days) 24	30 25	31 26	

November 2025

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3 27	4 28	5 29	Nov 6 DAY 30 (add 30 Business Day ext)	7 31	8

9	10 32	11 Remembrance Day *Interpretation Act* s.28(1)(x)(ii)	12 33	13 34	14 35	15
16	17 36	18 37	19 38	20 39	21 40	22
23	24 41	25 42	26 43	27 44	28 45	29
30						

December 2025

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1 46	2 47	3 48	4 49	5 50	6
7	8 51	9 52	10 53	11 54	12 55	13

14	15 56	16 57	17 58	Dec 18 2nd ext taken (+140 Business Days) 59	Dec 19 DAY 60 (add 140 Business Day ext)	20
21	22 1	23 2	24 3 December (Christmas) Floater (see footnote 9 in Order)	25 Christmas Day *Interpretation Act* s.28(1)(x)(ii)	26 (Boxing Day) *Interpretation Act* s.28(1)(x)(iv)	27
28	29 Christmas Closure PSE reg s.62.1(1)(e)/ATIA s.1(c)(iii)	30 Christmas Closure PSE reg s.62.1(1)(e)/ATIA s.1(c)(iii)	31 Christmas Closure PSE reg s.62.1(1)(e)/ATIA s.1(c)(iii)	*(see below for further information on Christmas Closure)		

*[*Christmas Closure Directive*]

When Christmas Day falls on a Sunday, the Christmas closure will occur on December 29 and 30

When Christmas Day falls on a Monday, the Christmas closure will occur on December 28 and 29

When Christmas Day falls on a Tuesday, the Christmas closure will occur on December 27, 28 and 31

When Christmas Day falls on a Wednesday, the Christmas closure will occur on December 24, 30 and 31

When Christmas Day falls on a Thursday, the Christmas closure will occur on December 29, 30 and 31

When Christmas Day falls on a Friday, the Christmas closure will occur on December 29, 30 and 31

When Christmas Day falls on a Saturday, the Christmas closure will occur on December 29, 30 and 31

January 2026

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1 New Year's Day *Interpretation Act* s.28(1)(x)(ii)	2 4	3

4	5 5	6 6	7 7	8 8	9 9	10
11	12 10	13 11	14 12	15 13	16 14	17
18	19 15	20 16	21 17	22 18	23 19	24
25	26 20	27 21	28 22	29 23	30 24	31

February 2026

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2 25	3 26	4 27	5 28	6 29	7
8	9 30	10 31	11 32	12 33	13 34	14

15	16 Alberta Family Day *Interpretation Act* s.28(1)(x)(ii)	17 35	18 36	19 37	20 38	21
22	23 39	24 40	25 41	26 42	27 43	28

March 2026

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2 44	3 45	4 46	5 47	6 48	7
8	9 49	10 50	11 51	12 52	13 53	14
15	16 54	17 55	18 56	19 57	20 58	21
22	23 59	24 60	25 61	26 62	27 63	28

29	30 64	31 65				

April 2026

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1 66	2 67	3 Good Friday *Interpretation Act* s.28(1)(x)(ii)	4
5	6 Easter Monday *Interpretation Act* s.28(1)(x)(ii)	7 68	8 69	9 70	10 71	11
12	13 72	14 73	15 74	16 75	17 76	18
19	20 77	21 78	22 79	23 80	24 81	26
26	27 82	28 83	29 84	30 85		

May 2026

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1 86	2
3	4 87	5 88	6 89	7 90	8 91	9
10	11 92	12 93	13 94	14 95	15 96	16
17	18 Victoria Day *Interpretation Act* s.28(1)(x)(ii)	19 97	20 98	21 99	22 100	23
24	25 101	26 102	27 103	28 104	29 105	30
31						

June 2026

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1 106	2 107	3 108	4 109	5 110	6
7	8 111	9 112	10 113	11 114	12 115	13
14	15 116	16 117	17 118	18 119	19 120	20
21	22 121	23 122	24 123	25 124	26 125	27
28	29 126	30 127				

July 2026

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1 Canada Day *Interpretation Act* s.28(1)(x)(ii)	2 128	3 129	4

5	6 130	7 131	8 132	9 133	10 134	11
12	13 135	July 14 3rd ext taken 16(4) 136	15 137	16 138	17 139	18
19	July 20 140 Revised resp date for records not related to 3rd party	21	22	23	24	25
26	27	28	29	30	31	