



REVIEW REPORT 034-2016

Ministry of Government Relations

July 28, 2016

Summary:

The Applicant submitted an access to information request to the Ministry of Government Relations (Government Relations) for a fire report. The Ministry applied a time extension to respond to the request pursuant to subsections 12(1)(a)(ii) and (b) of *The Freedom of Information and Protection of Privacy Act* (FOIP). The Commissioner found that Government Relations properly applied an extension of time pursuant to subsections 12(1)(a)(ii) and (b) of FOIP. The Commissioner recommended that the change in process be made into a written policy to ensure all current and future employees are aware of the process.

I BACKGROUND

- [1] On January 22, 2016, the Ministry of Government Relations (Government Relations) received an access to information request for “Fire report – Oct 31/15. Lamontagne Pl. Buena Vista SK.”
- [2] On February 22, 2016, Government Relations responded to the Applicant indicating that it would be extending the response period for an additional 30 days pursuant to subsection 12(1)(b) of *The Freedom of Information and Protection of Privacy Act* (FOIP) “to complete the record search, analysis, and consultations necessary to comply with the application...”
- [3] On March 1, 2016, my office received a request for review from the Applicant for the application of the 30 day extension.

[4] On March 2, 2016, my office notified both the Applicant and Government Relations of our intention to review the application of the 30 day extension to respond to the request.

[5] On March 18, 2016, my office received Government Relations' submission for applying the time extension pursuant to subsection 12(1)(b) of FOIP. In the submission, Government Relations also advised they were relying on subsection 12(1)(a)(ii) of FOIP for applying the extension of time.

II RECORDS AT ISSUE

[6] There are no records at issue in this review as the review will only consider whether or not it was appropriate to apply an extension of time.

III DISCUSSION OF THE ISSUES

[7] Government Relations is considered a "government institution" pursuant to subsection 2(1)(d)(i) of FOIP.

1. Did Government Relations properly apply a time extension to their response to the Applicant pursuant to subsections 12(1)(a)(ii) and (b) of FOIP?

[8] Subsection 12(1)(a)(ii) of FOIP reads as follows:

12(1) The head of a government institution may extend the period set out in section 7 or 11 for a reasonable period not exceeding 30 days:

(a) where:

...

(ii) there is a large number of requests;

and completing the work within the original period would unreasonably interfere with the operations of the government institution;

(b) where consultations that are necessary to comply with the application cannot reasonably be completed within the original period;

[9] Government Relations provided the following information to support the application of this exemption:

Our Ministry received the initial access to information request from the Applicant on January 22, 2016... The request was received by the Emergency Management and Fire Safety (EMFS) branch, and sent to Access to Information Officer [name of employee] in Corporate Services. [The Access to Information Officer] directed EMFS to provide any responsive materials from their branch.

The report was provided on February 18th to [name of employee], Corporate Planning Analyst, who assists with access to information requests. Given the need to process the document and receive final approval for our response to the Applicant, an extension was prepared and sent to the Applicant on February 22nd in accordance with subsection 12(1)(b) of FOIPPA. The final response, with redacted documents under FOIPPA exemptions 29(1) to protect personal information, was sent to the Applicant on February 29, 2016.

...

...The fire investigation reports are frequently requested through access to information requests submitted to Government Relations; of the 49 access to information requests the Ministry received in 2015, 19 were for access to fire investigation reports. The Corporate Services branch works with branches across the Ministry to process access to information request responses.

...Elements of subsection 12(1)(a)(ii), which states "...and completing the work within the original period would unreasonably interfere with the operations of the government institution" were also applicable.

The inability to provide a response within the legislated 30 day timeframe is attributed to several factors:

- EMFS is responsible for fire investigations, and fire inspection and code enforcement. These programs are delivered by four staff members. Other work priorities in January to February 2016, including investigations of significant fires, substantial fire code issues with municipalities, onsite certifications, and other stakeholders' interests, impacted the timeliness of the processing and provision of the fire investigation report.
- The EMFS staff member responsible for responding to access to information requests for fire investigation reports needed to separate information from other documents to produce the requested fire investigation report.
- EMFS is responsible for an electronic Fire Data Management and Reporting System that allows fire departments to submit their fire investigation reports electronically. Information Technology issues with the database has complicated responses. The database issue did not have a direct impact on

this request, but complications with the system have added to the branch's already significant workload.

- The requested fire report contained potential personal and financial information. Consultations with the Ministry's legal advisor from the Ministry of Justice need to be considered before a response could be provided. Given the time to retrieve the documents and provide them to Corporate Services this could not occur prior to the original 30 day deadline.

During the extended time period, Corporate Services worked with our legal advisor to determine which personal and financial information must be protected... The response to the Applicant was sent on February 29, 40 days after the access to information request was received by our ministry.

- [10] Government Relations also provided my office with the following information regarding the number of requests it was processing:

Typically, the Ministry has a few open requests at any point in time. During the time of this request, it could be said that the Ministry had been dealing with more than the usual amount of requests. The Ministry had an additional six open requests (one of the additional requested pertained to EMFS and the request was for a fire investigation report). Each of the requests were from different applications and they each required varying amounts of time to complete. Four of the six requests required 30 day extensions (the EMFS request was one of the four requests that required an extension).

- [11] The first consideration in determining if subsection 12(1)(a)(ii) of FOIP applies is to consider if Government Relations was dealing with a large number of requests. Based on the information provided by Government Relations, the Ministry was dealing with about double the amount of requests that it would normally deal with at any point in time. While seven requests to some public bodies may be a normal or even low number, it is reasonable that this was an abnormal volume of requests for Government Relations to be handling at once.

- [12] In Review Report 123-2015, it was stated that "although a large number of requests is not defined, it is reasonable to consider at least double the amount of requested normally open... to be a large number of requests for that Ministry." Although that report dealt with a larger number of requests, the same consideration needs to be given to Government Relations as it was also dealing with double the amount of requests normally

handled at one time. As such, I find that the requests Government Relations was dealing with at that time to qualify as a large number of requests, for their Ministry.

[13] The second consideration in determining if subsection 12(1)(a)(ii) of FOIP applies is to consider if completing the work in the original time period would unreasonably interfere with operations.

[14] The Office of the Information and Privacy Commissioner of British Columbia has a resource entitled *Time Extension Requests Guidelines for Public Bodies*. In this resource, it lists the following circumstances that may contribute to unreasonable interference:

Circumstances that may contribute to unreasonable interference:

- Significant increase in FOI requests
- Significant increase in analysts caseloads
- Computer system or technical problems
- Unexpected analyst leave
- Unusual number of new analysts-in-training
- Cross government requests
- Program area discovers a significant amount of additional records
- Type of records
- Number of program areas searched
- Location of records

Invalid circumstances:

- The operation has not been allocated sufficient resources
- Long term or systemic problems
- Vacations
- Office processes (e.g. sign-off)
- Personal commitments
- Pre-planned events

...

Other Relevant Information:

- The public body made attempts to correct a mistake in processing the request
- The public body communicated with the applicant
- The public body made a phased release
- The public body provided reasonable release dates
- The public body waives fees

- [15] Although Government Relations had indicated in its submission that the electronic Fire Data Management and Reporting System did not directly impact this request, further information provided to my office indicated that at the time the request was received from the Applicant, Government Relations had not yet received the investigation report from the fire department.
- [16] Government Relations explained in a telephone conversation with my office that due to issues with the database, it was experiencing delays in receiving investigation reports from the fire departments. My office inquired how long it generally takes to receive fire investigation reports from the fire departments. Government Relations indicated that timelines vary and can be entered anywhere from the day after the fire occurred to many months later. After receiving the access to information request from the Applicant, EMFS contacted the fire department and worked with them to obtain the information in order to respond to the request.
- [17] Government Relations also advised that it revised its process for handling requests for fire investigation reports. Government Relations indicated that the change in process should allow adequate time for EMFS to gather the requested information and for the access and privacy coordinator to complete any severing and obtain approval before responding to the request. This change in process was provided in an email to staff, however Government Relations did not include this in any policy/procedure/guideline. Government Relations should consider including this process in a formal policy/procedure/guideline so that current staff have a document to reference and future staff are aware of this process.
- [18] The B.C. resource references other considerations which includes a reasonable release date. Although Government Relations applied the 30 day time extension pursuant to section 12 of FOIP due to the number of requests it was handling, it only resulted in a delay of an additional seven days. Considering EMFS did not have a copy of the investigation report in its possession at the time of the request and worked to obtain the information in order to be as transparent as possible, it seems reasonable that this resulted in a delay of seven days.

[19] Based on these considerations, I find that subsection 12(1)(a)(ii) of FOIP was applied appropriately to extend the response period. As subsection 12(1)(a)(ii) of FOIP applies, I will not consider the application of subsection 12(1)(b) of FOIP.

IV FINDING

[20] I find that Government Relations appropriately applied an extension of time to the response to the Applicant.

V RECOMMENDATION

[21] I recommend Government Relations include the revised process for handling requests for fire investigations in a policy/procedure/guideline.

Dated at Regina, in the Province of Saskatchewan, this 28th day of July, 2016.

Ronald J. Kruzeniski, Q.C.
Saskatchewan Information and Privacy
Commissioner