



REVIEW REPORT 158-2017

Ministry of Energy and Resources

June 1, 2018

Summary: The Applicant submitted an Access to Information request to the Ministry of Energy and Resources (Ministry). The Ministry applied a time extension to respond to the request pursuant to subsection 12(1)(a)(ii) of *The Freedom of Information and Protection of Privacy Act* (FOIP). The Commissioner found that the Ministry properly applied the extension of time, and therefore had no recommendations for the Ministry.

I BACKGROUND

[1] At the time of the access to information request, the Ministry of the Economy was a single ministry. However, during the course of this review, the Ministry of the Economy was split into three ministries: the Ministry of Energy and Resources, the Ministry of Export and Trade Development and the Ministry of Immigration and Career Training. My office has been advised that this request now falls under the jurisdiction of the Ministry of Energy and Resources. Therefore, this report will refer to the Ministry of Energy and Resources (the Ministry).

[2] The Applicant submitted an access to information request pursuant to *The Freedom of Information and Protection of Privacy Act* (FOIP) which was received by the Ministry on June 21, 2017, requesting access to:

A copy of the document titled 'Sour Gas Chronology Order 2013' or and document created that month called 'Sour Gas Chronology'. October 2013.

- [3] By letter dated July 20, 2017, the Ministry extended the response time an additional 30 days pursuant to subsection 12(1)(a)(ii) of FOIP.
- [4] My office received a request for review from the Applicant on August 2, 2017 regarding the Ministry's decision to extend the response time. My office provided notification to the Ministry and the Applicant of our intention to conduct the review on August 3, 2017.
- [5] By letter dated August 17, 2017, the Ministry responded to the Applicant's access to information request granting partial access to the request.
- [6] On August 23, 2017, my office contacted the Applicant to inquire if the response received from the Ministry was satisfactory or if the scope of the review should be expanded. In addition, my office inquired if the Applicant wished to continue with the review of the extension of time now that the response and record had been received. The Applicant was satisfied with the response but did wish to continue with the review of the extension of time.
- [7] My office received a submission from the Ministry on September 6, 2017.

II RECORDS AT ISSUE

- [8] There are no records at issue in this review as the review will only consider whether it was appropriate for the Ministry to apply an extension of time.

III DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

- [9] The Ministry is a "government institution" pursuant to subsection 2(1)(d)(i) of FOIP. Thus I have authority to conduct this review.

2. Did the Ministry properly apply a time extension to its response to the Applicant pursuant to subsection 12(1)(a)(ii) of FOIP?

[10] Subsection 12(1)(a)(ii) of FOIP provides:

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.

[11] This provision allows a time extension to be applied where the public body has received a large number of access to information requests and completing them within the original 30 days would unreasonably interfere with the operations of the public body. To qualify for an extension of time pursuant to subsection 12(1)(a)(ii) of FOIP, both parts of the following test must be met:

1. Were there a high number of requests at the time?
2. Will meeting the original time limit unreasonably interfere with the operations of the public body?

[12] I will now determine if the Ministry has met each part of the test.

1. Were there a high number of requests at the time?

[13] In its submission, the Ministry advised my office that it had experienced a significant increase in Access to Information requests in 2017. For example, by June 21, 2016, it had received 69 requests. By comparison, it had received 112 requests by June 21, 2017. These numbers reflect a 61.6% increase from 2016 to 2017, which is a significant increase. In addition, the Ministry advised my office that due to the nature of many of the requests received in 2017, it has resulted in excessively large files.

[14] Although FOIP does not define “large number of requests”, it is reasonable to conclude that the numbers provided from the Ministry would support that there were a large number of requests.

[15] The Ministry has demonstrated that there were a high number of requests at the time the request was being processed. Therefore, the first part of the test has been met.

2. *Will meeting the original time limit unreasonably interfere with the operations of the public body?*

[16] In this context, *interference* means to obstruct or hinder the range of effectiveness of the public body’s activities.

[17] At the time the request was being processed, the Ministry informed my office that there was generally one to two employees processing access requests at any given time. There were a few reasons for this. During the time this request was being processed, one position became vacant. Secondly, as the request was processed during the summer months, at times there would be an employee away on vacation leave. However, the Ministry has also informed my office that staff were working overtime in an effort to keep up with the influx of Access to Information requests.

[18] As noted above, a position became vacant during the time this request was being processed. Therefore, the Ministry was engaged in a staffing process to fill the vacant position during the time of this request. The position was not filled until after the Ministry responded to the Applicant.

[19] In paragraph [13] of Review Report 123-2015 (Ministry of Justice), I noted the following:

Both the Office of the Information and Privacy Commissioner for British Columbia and Nova Scotia’s Freedom of Information and Protection of Privacy Review Office have resources entitled *Time Extension Requests Guidelines for Public Bodies*. In these resources it lists circumstances that may contribute to unreasonable

interference. The list includes: significant increase in requests, significant increase in analyst caseloads and unexpected analyst leave.

[20] I agree with the position of the British Columbia and Nova Scotia Commissioners. From the information provided to my office by the Ministry, I agree that it was facing a significant increase in requests, significant increase in employee caseloads and an unexpected employee leave. Therefore, in this circumstance, the Ministry has met the threshold for this test.

[21] Since the commencement of this Review, the Ministry has taken steps to address its increasing caseload of Access to Information requests. The Ministry has informed my office that it now has five employees whose workloads can shift in order to handle unexpected increases in Access to Information requests. I applaud the Ministry for its efforts to increase capacity.

[22] I find the Ministry properly applied a time extension to its response to the Applicant pursuant to subsection 12(1)(a)(ii) of FOIP.

IV FINDING

[23] I find the Ministry properly applied a time extension to its response to the Applicant pursuant to subsection 12(1)(a)(ii) of FOIP.

V RECOMMENDATION

[24] There are no recommendations at this time, as I am satisfied that the Ministry properly applied a time extension.

Dated at Regina, in the Province of Saskatchewan, this 1st day of June, 2018.

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