



Extending the Time Limit for Responding Under The Freedom of Information and Protection of Privacy Act (FIPPA)

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Manitoba Ombudsman to
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A public body must make every reasonable effort to respond in writing to an access request within 45 days after receiving it (subsection 11(1)). Under FIPPA (subsection 15(1)), a public body may extend the time for responding to an access request for up to an additional 30 days, or for a longer period if the Ombudsman agrees. This Practice Note has been prepared to assist public sector bodies in extending the time limit to respond for up to 30 additional days.

If a public body requires an extension longer than 30 days, it should review our Practice Note: Making a Submission to the Ombudsman for an Extension Longer than 30 Days.

The 45-day time limit for responding to an access request is based on calendar days. If the last day for responding falls on either a statutory holiday or a Sunday, then the due date is automatically extended to the next day.

A public body should begin processing access requests as soon as possible (See our “Guideline on time frames for processing a FIPPA request” for more information). This will assist the public body in determining whether clarification or additional information is needed from the applicant or if an extension for responding is needed. The extension must be taken within 45 days of receiving the request.

It should be noted that the time limit for responding under The Personal Health Information Act (PHIA) is 30 days for a request made by an individual for his or her personal health information and this time limit cannot be extended.

Extending the Time Limit for up to an Additional 30 Days

A public body may extend the time limit to respond to a request for up to an additional 30 days in one of the following circumstances if:

- Responding in the 45-day time period is unreasonable because of the large number of records that have been requested or that must be searched (subclause 15(1)(b)(i))
- responding in the 45-day time period is unreasonable because of the number of requests made by the applicant or by two or more applicants who are associated as set out in section 1.2 of the regulation (subclause 15(1)(b)(ii))
- time is needed to consult with a third party or another public body or to obtain legal advice before deciding whether or not to grant access to a record (clause 15(1)(c))
- a third party makes a complaint under subsection 59(2) (clause 15(1)(d)).
- the applicant consents to the extension (clause 15(1)(e))
- exceptional circumstances warrant the extension (clause 15(1)(f))

Each clause under subsection 15(1) contains specific elements that must apply to a situation in order to rely on the clause. A public body should document the reasons that support its basis for an extension. For an outline of the clause-specific information that would be requested from a public body by the Ombudsman if a complaint is made, please see our Practice Note Responding to a Complaint about the Extension of the Time Limit for Responding under FIPPA.

Factors that do not Support an Extension

When considering an extension of the time limit to respond to a request, a public body cannot claim an extension for:

- consulting employees within the public body that received the request, unless those employees are a lawyer providing legal advice (for example: access and privacy personnel obtaining internal advice about the release of records)
- insufficient staff resources to respond to a request (for example: access and privacy personnel away on vacation), unless due to exceptional circumstances
- unexplained or unreasonable gaps in the time spent processing the request.

Notifying the Applicant of an Extension

When extending the time limit to respond to a request a public body is required to notify the applicant in writing (subsection 15(2)). The notification must inform the applicant of:

1. the reason for the extension (indicate the clause under subsection 15(1) that permits the extension and explain how the clause applies to the situation)
2. when the response can be expected (specify the number of days of the extended time period and indicate the extended due date)
3. the right to make a complaint to the Ombudsman about the extension (provide contact information for Manitoba Ombudsman and advise of the 60-day time limit to complain)

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