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Public Body Guidance on Time Extensions

This document is intended to help public bodies understand when to consider a time extension request under **section 63** of the [Access to Information and Protection of Privacy Act](#) (ATIPP Act) and how to complete the Request for Time Extension Form (RFTE) for submission to the office of the Information and Privacy Commissioner (IPC).

Requests made under section 62 should follow procedures established by the Access and Privacy Officer (APO).

This guidance document has been developed in accordance with the principle that individuals who make access to information requests are entitled to a timely response to their requests.

Introduction to Time Extensions

Under the ATIPP Act, a public body may submit a request for a time extension to the Access and Privacy Officer (APO) under section 62 or to the OIPC under section 63. This guidance document focuses on the process for requesting a time extension to the IPC, however, note that there are differences between these two processes, and you should be familiar with them.

Access and Privacy Officer

- The APO can grant an extension of no more than 15 business days¹, or up to a maximum of 30 business days if the applicant consents in writing under subsection 62 (3)(a). To grant the extension, the APO must determine that at least one of the circumstances in sections 62 (2)(a)(i) through (vi) applies.
- A request for extension to the APO must be received no later than 5 business days before the response due date.

Office of the Information and Privacy Commissioner

- The IPC can grant an extension with no limit on the number of approved days, or the number of extensions granted.

¹ A business day is a day that is not a Saturday, Sunday, or a holiday as defined in the [Interpretation Act](#).

- A request for extension to the OIPC must be received no later than eight business days before the response date ²for the access request.
- The OIPC may extend the public body’s response date for an access request if at least one of the circumstances in sections 62 (2)(a)(i) through (vi) applies. The IPC also has discretion to grant an extension for reasons other than those outlined in subsection 62 (2).

In all circumstances, it is the public body’s responsibility to demonstrate the need for a time extension. The reasons provided must be based in objective fact and supported with evidence.

Please do not submit time extension requests to the IPC that are actively being reviewed by the APO under s.62. If you have made an extension request to the APO, you must wait until the APO has reached a decision before submitting a time extension request to the IPC for the same access request.

If you have submitted an extension request to the IPC, you must wait until a decision is reached before submitting an extension request to the APO for the same access request.

Requesting a Time Extension from the OIPC under Section 63

A public body should submit its request for a time extension only after having considered all the relevant factors and determined that an extension is required and is reasonable under the circumstances.

The IPC’s decision on a time extension request will be made based **solely on the information provided in the RFTE at the time of request**. A public body must provide all relevant information necessary to demonstrate that the time extension request is reasonable and justified in the circumstances.

Given the strict legislated timelines for responding to an extension request (3 business days), the IPC will not typically seek any additional information from the public body beyond what was provided in the RFTE.

Failure to provide sufficient information for the OIPC to make a determination regarding a time extension may result in the request being refused. If the IPC is unable to obtain the information it requires from the APO to make a determination regarding a time extension, the public body’s request may be refused.

² “response date” in respect of an access request, means the date determined under section 50 by which the head of a responsive public body must respond to the access request.

Completing the Request for Time Extension Form

Part 1 – Public Body Information

In this section, enter the public body's information along with a contact person – usually the Designated Access Officer (DAO) – including an email address and phone number. Note that the IPC will communicate its decision regarding the extension request to the identified contact person by secure file transfer.

Part 2 – Administration of Access Request

In this section, enter all the information related to the access request at issue including the activation date, cost estimates, and current response due date.

- **Access Request Details:** Provide the access request in full. If it does not fit in the allotted section, include it as a separate attachment.
- **Date Request Activated:** Provide the activation date of the access request.
- **Initial Response Due Date:** Provide the initial 30-day response due date.
- **Date Cost Estimate Issued (if applicable):** If applicable, provide the date on which the cost estimate was issued to the applicant.
- **Revised Response Due Date (if applicable):** Where a cost estimate was issued, provide the revised response due date.

Part 3 – Time Extension Request(s) to the APO (s.62)

Skip this section if you have not made any time extension requests to the APO.

This section is intended to capture all time extension requests to the APO in respect of a particular access request, including where an extension was refused.

- **Total Number of Days Requested:** Provide the total number business days requested for extension to the APO.
- **Total Number of Days Granted (if applicable):** If applicable, provide the total number of business days approved for extension by the APO.
- **Revised Response Due Date (if applicable):** If applicable, provide the revised response due date subsequent to the APO's time extension. If more than one extension was granted by the APO, only include the current response due date.

When filling out this section, you must include all extension requests made to the APO and all responses received from the APO, including the new response date if applicable. These documents should be included as separate attachments when submitting your RFTE.

Part 4 – Previous Time Extension Request(s) to the IPC (s.63)

Skip this section if you have not made any previous time extension requests to the IPC.

This section is intended to capture any previous time extension requests to the IPC.

- **IPC File number(s):** Provide the file number for each previous time extension request made to the OIPC.
- **Total Number of Days Requested:** Provide the total number of business days previously requested for extension to the IPC.
- **Total Number of Days Granted:** If applicable, provide the total number of business days approved for extension by the IPC.
- **Revised Response Due Date:** If applicable, provide the revised response due date subsequent to the IPC's approved extension(s). If more than one extension was granted by the IPC, only include the current response due date.

Note: Where a public body's time extension request is refused by the IPC (e.g., due to insufficient information), a public body may re-apply for an extension for the same access request by submitting a new RFTE form, as long as all of the legislated timelines are met. Be sure to provide sufficient evidence to support your request

Part 5 – Time Extension Requests to the IPC

This section is intended to capture all the information related to your **current** time extension request. Before applying for a time extension, public bodies should determine how much additional time is *reasonably* required to respond to the access request.

- **Length of Time Extension Requested (in days):** Provide the number of additional business days you are requesting.
- **Revised Response Due Date (if granted):** Enter the new response due date, presuming your time extension request is approved.

Reasons for a Time Extension Request

Select the reason(s) which have resulted in the need for a time extension. If more than one reason applies, check all applicable boxes, but be mindful that you will have to provide evidence to support any reasons you select. The evidence you provide should clearly demonstrate why an extension is required and should justify the number of days sought for the extension. (See Length of Time Extension section below).

It is important to provide sufficient information and evidence to support your application for extension. The more information and detail you can provide, the greater the likelihood of receiving an extension. It is insufficient for public bodies to simply reiterate the reasons they have

selected. Document the evidence required to support your extension request in the **Details** section at the bottom of PART 5.

Below is a chart to assist you in understanding what information/evidence is required for each provision. The chart below is not exhaustive and is provided as guidance.

This information is not legal advice, nor is it a decision of the Information and Privacy Commissioner or in any way binding on her. The IPC reserves the right to modify or update the information provided in this chart as deemed necessary.	
ATIPP Provision	Determining factors
<p>s.62(2)(i) Unreasonable interference with the public body's operations</p>	<p>The public body must demonstrate that meeting the time limit will unreasonably interfere with its operations. <i>These are context specific to the point in time in which the access request was received and its processing.</i></p> <p>Factors we may consider:</p> <p>The amount of work required to process the request.</p> <ul style="list-style-type: none"> • the number of records that are relevant to the request. • whether attempts were made to work with the applicant to narrow the scope or reduce the number or volume of records relevant to the request. • the amount of research, compilation, or examination of the information required to process the request (provide detailed rationale). • the amount of work already undertaken to process the request. • the time available to process the request as compared to the amount of work required. • the degree of complexity associated with the request (provide detailed rationale). <ul style="list-style-type: none"> ○ the request is broad, ○ type of records requires different methods of handling (e.g. microfiche) ○ records require technical expertise to evaluate, ○ the sensitivity of the records requires special handling (youth justice, legal services, etc.) • whether there are technical capabilities that will facilitate responding within the time frame (e.g., can the information be extracted from a database?) <p>The public body's capacity to process the request.</p> <ul style="list-style-type: none"> • the public body has a considerable and relatively greater number of access requests to process than normal (evidence required).

	<ul style="list-style-type: none"> • the public has a considerable and relatively greater number of complex access requests to process than normal (evidence required). • the public body, based on its size and normal access to information processing capacity, has adequately resourced its ATIPP program (evidence required). • whether the public body has attempted to add resources to process the request on time. • whether there been an unexpected resource issue impacting the public body’s ability to respond in time (evidence and rationale required). • Any other relevant factor - evidence and rationale required. <p>Factors we will not consider:</p> <ul style="list-style-type: none"> • insufficient resources (insufficient resources allocated to process access requests, new staff, leaves, personal commitments, etc. Public bodies should establish a baseline of what human resources are reasonably required to process the normal/average amount of access requests.) • time required for inter-office procedures (sign-offs, etc.) • poor record keeping practices that lengthens the search time. • failure by employees or others to respond to the call for records.
<p>s.62(2)(ii) Multiple concurrent access requests by applicant</p>	<p>The public body must demonstrate that because it received multiple concurrent requests from the same applicant, meeting the time limit would unreasonably interfere with its operations. You should explain how it was determined that the concurrent requests are from the same applicant.</p> <p>Factors we may consider: The applicant submitted multiple access requests at or near the same date and one or more of the factors for 62 (2)(a)(i) also apply – see above.</p> <p>Factors we will not consider:</p> <ul style="list-style-type: none"> • insufficient resources (insufficient resources allocated to process access requests, new staff, leaves, personal commitments, etc. Public bodies should establish a baseline of what human resources are reasonably required to process the normal/average amount of access requests.) • time required for inter-office procedures (sign-offs, etc.) • poor record keeping practices that lengthens the search time. • failure by employees or others to respond to the call for records.
<p>s.62(2)(iii) Multiple concurrent access requests by applicant and another associated applicant</p>	<p>The public body must demonstrate that because it received multiple concurrent access requests from an applicant in association with another applicant (or in association with the same entity), that meeting the time limit would unreasonably interfere with its operations. You should explain how the applicants are associated with each other, and information about how this determination was made.</p>

	<p><u>Factors we may consider:</u> Multiple concurrent access requests, at or near the same date, by an applicant and another associated applicant and one or more of the factors for 62 (2)(a)(i) also apply – see above.</p> <p><u>Factors we will not consider:</u></p> <ul style="list-style-type: none"> • insufficient resources (insufficient resources allocated to process access requests, new staff, leaves, personal commitments, etc. Public bodies should establish a baseline of what human resources are reasonably required to process the normal/average amount of access requests.) • time required for inter-office procedures (sign-offs, etc.) • poor record keeping practices that lengthens the search time. • failure by employees or others to respond to the call for records.
<p>s.62(2)(iv) Requires more information from applicant to process access request</p>	<p>The public body has the burden of providing objective evidence that establishes that it needs more information from the applicant to process the request. You should include any relevant communications between the public body, the APO, the applicant, etc., demonstrating that additional information is required, and what efforts were made to obtain the additional information up to now.</p> <p><u>Factors we may consider:</u></p> <ul style="list-style-type: none"> • despite assistance from the APO in clarifying the applicant’s request during the initial stages, the public body determines it requires more information from the applicant to identify the responsive records. • difficulty in reaching the applicant in regard to a request for clarification. • whether the public body tried to reach the applicant within a reasonable time to clarify the request after receiving it. • circumstances arose during the processing of the request that require the public body to obtain more information from the applicant. <ul style="list-style-type: none"> ○ Example: new information has come to light from the program area during the processing of the request. There is an opportunity that obtaining additional information from the applicant to further narrow the request, will enable the public body to respond sooner. • any other relevant factor. <p><u>Factors we will not consider:</u></p> <ul style="list-style-type: none"> • the APO failed to assist the applicant in making a request that sufficiently details the records being requested and the public body is not able to respond to the request. • delays caused by the public body or any of its staff in locating and identifying information relevant to the request. • the public body should reasonably have sought additional information from the applicant during the initial stages but failed to do so.

<p>s.62(2)(v)(A) Consultation with another public body whose information has been identified as relevant to the access request</p>	<p>The public body must demonstrate that it <i>reasonably</i> requires more time to consult with third party public body (3P PB) whose information has been identified as relevant to the access request.</p> <p>To meet this threshold, a public body will need to establish that:</p> <ul style="list-style-type: none"> • based on the information in the records, the public body has determined that a mandatory exception might apply to a 3P PB’s information but needs information from the 3P PB to make the determination; or • based on the information in the records, the public body has determined that there might be a need to apply a discretionary exception to the 3P PB’s information but requires information from the 3P PB to make the determination; and • the consultation will cause the public body to exceed the response date. <p>You should explain how it was determined that the information at issue also belongs to the 3P PB. Provide copies of any relevant communications between the parties demonstrating that additional information is required, and what efforts were made to obtain the additional information up to now. If applicable, provide a copy of any 3P notices issued.</p> <p><u>Time required to consult:</u> As a general benchmark, the IPC considers that 14 business days is sufficient to complete a 3P consultation.</p> <p>The public body will only reasonably require more time to consult where the deadline for the third party to respond falls outside the initial legislated time limit for responding to the access request.</p> <p><u>Factors we may consider:</u></p> <ul style="list-style-type: none"> • the response date, • progress of work undertaken to process the access request up to now, • any delays caused by staff in processing the request, • the length of time the public body took to determine the need to consult, • any challenges in contacting the 3P PB for consultation, • time provided to 3P PB to submit written objections, • any other relevant factor. <p>The public body will not <i>reasonably</i> require more time to consult a 3P PB when:</p> <ul style="list-style-type: none"> • the public body has determined there is a clear right of access to the information because no exception to the right of access exists; or • the public body has determined that it is clear that there is an exception to the right of access and intends to refuse access to the information requested. <p>See Relevant Case Law section at the end of this document for more information on the when the duty to consult is triggered under access to information laws.</p>
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<p>s.62(2)(v)(B) Consultation with a person, government or other entity that is likely to be adversely impacted by granting access</p>	<p>The public body must demonstrate that it <i>reasonably</i> requires more time to consult with a third party (3P) – person, government, or other entity – because the head reasonably believes the 3P is likely to be adversely affected by granting access to the information.</p> <p>To meet this threshold, a public body will need to establish that:</p> <ul style="list-style-type: none"> • based on the information in the records, the public body has determined that the 3P is likely to be adversely affected (subjective belief and objective evidence) if the information is released; and • the consultation will cause the public body to exceed the response date. <p>You should explain <i>why</i> you believe that releasing the information at issue will adversely affect the 3P. Provide copies of any relevant communications between the parties demonstrating that additional information is required, and what efforts were made to obtain the additional information up to now. If applicable, provide a copy of any 3P notices issued.</p> <p>Time required to consult: As a general benchmark, the IPC considers that 14 business days is sufficient to complete a 3P consultation.</p> <p>The public body will only reasonably require more time to consult where the deadline for the third party to respond falls outside the initial legislated time limit for responding to the access request.</p> <p>Factors we may consider:</p> <ul style="list-style-type: none"> • the response date, • progress of work undertaken to process the access request up to now, • any delays caused by staff in processing the request, • the length of time the public body took to determine the need to consult, • any challenges in contacting the 3P for consultation, • time provided to 3P to submit written objections, • any other relevant factor. <p>The public body will not <i>reasonably</i> require more time to consult a 3P when:</p> <ul style="list-style-type: none"> • the public body has determined there is a clear right of access to the information because no exception to the right of access exists; or • the public body has determined that it is clear that there is an exception to the right of access and intends to refuse access to the information requested. <p>See Relevant Case Law section at the end of this document for more information on the when the duty to consult is triggered under access to information laws.</p>
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<p>s.62(2)(vi) To seek views of a third party whose information has been identified as relevant to the access request</p>	<p>The public body must demonstrate that it <i>reasonably</i> requires more time to seek the views of a 3P whose information has been identified as relevant to the access request.</p> <p>To meet this threshold, a public body will need to establish that:</p> <ul style="list-style-type: none"> • based on the information in the records, the public body has determined that a mandatory exception might apply to a 3P's information but needs information from the 3P to make the determination; or • based on the information in the records, the public body has determined that there might be a need to apply a discretionary exception to the 3P's information but requires information from the 3P to make the determination; and • the consultation will cause the public body to exceed the response date. <p>You should explain how it was determined that the information at issue also belongs to the 3P. Provide copies of any relevant communications between the parties demonstrating that additional information is required, and what efforts were made to obtain the additional information up to now. If applicable, provide a copy of any 3P notices issued.</p> <p><u>Time required to consult:</u> As a general benchmark, the IPC considers that 14 business days is sufficient to complete a 3P consultation.</p> <p>The public body will only reasonably require more time to consult where the deadline for the third party to respond falls outside the initial legislated time limit for responding to the access request.</p> <p><u>Factors we may consider:</u></p> <ul style="list-style-type: none"> • the response date, • progress of work undertaken to process the access request up to now, • any delays caused by staff in processing the request, • the length of time the public body took to determine the need to consult, • any challenges in contacting the 3P for consultation, • time provided to 3P to submit written objections, • any other relevant factor. <p>The public body will not <i>reasonably</i> require more time to consult a 3P when:</p> <ul style="list-style-type: none"> • the public body has determined there is a clear right of access to the information because no exception to the right of access exists; or • the public body has determined that it is clear that there is an exception to the right of access and intends to refuse access to the information requested. <p>See Relevant Case Law section at the end of this document for more information on the when the duty to consult is triggered under access to information laws.</p>
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<p>s.63(4) Other Reasons</p>	<p>This provision cannot be used to circumvent the extension authorities in paragraph 62(2)(a).</p> <p>The use of this provision should be limited to unforeseen and compelling circumstances that may affect a public body’s ability to process an access request within the allotted response time and that the sections 62 (2)(a)(i) through (vi) do not apply.</p> <p>To rely on this section, a public body must provide detailed evidence setting out why, in the specific set of circumstances, it requires more time to respond.</p>
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Length of an Extension

The Public Body should only request the amount of time that is reasonably required to complete the access request in a timely fashion **and must provide details of how they applied their discretion in determining the amount of time required.**

If the IPC agrees that a time extension is justified, it will evaluate the amount of time that has been requested and use its discretion on the reasonableness of the amount of time requested based on the reasons outlined in the RFTE form.

The IPC may substitute its own time determination with that of the Public Body’s.

The following factors may be considered:

- Any previous extension requests and surrounding circumstances;
- The progress of work undertaken to process the access request up to time of the extension request;
- The amount of work remaining to complete the access request;
- The degree of complexity presented by the applicant’s access request(s); and
- Any other relevant factor.

Relevant Case Law and Other Resources

- An example of evidentiary requirements to support a time extension request is set out in the Federal Court of Appeal's decision in [*Information Commissioner of Canada v. Minister of National Defence*, 2015 FCA 56](#).
- An example of when the duty to consult a third party is triggered under access to information legislation is set out in the Supreme Court of Canada's decision in [*Merck Frosst Canada Ltd. v. Canada \(Health\)*, 2012 SCC 3 \(CanLII\), \[2012\] 1 SCR 23](#), at paras. 70 to 77.
- Time Extension Guidelines for Public Bodies from the B.C. OIPC, January 2018
<https://www.oipc.bc.ca/guidance-documents/1430>
- Practice Note for Time Extensions, Alberta OIPC, September 2016
https://www.oipc.ab.ca/media/1075621/practice_note_time_extension_sep2016.pdf

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