

Information and Privacy Commissioner,
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,
Ontario, Canada

ORDER PO-4739

Appeal PA25-00338

Ministry of Transportation

October 06, 2025

Summary: On June 7, 2024, an individual asked the Ministry of Transportation for records about the application of the ministry's procurement policy to the Ontario Line subway. They appealed because the ministry did not issue a decision within the prescribed time limit. The decision-maker finds that the ministry has not issued a decision, and the request is deemed to have been refused. The ministry is ordered to issue a final decision by October 21, 2025.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.3, as amended, sections 26 and 29.

OVERVIEW:

[1] On June 7, 2024, the appellant asked the ministry for access under the *Freedom of Information and Protection of Privacy Act* (the *Act*) to:

All records (including reports, briefing notes, slide decks and emails) that concern the application of the ministry's Canadian content for transit vehicle procurement policy to the procurement of the Ontario Line subway, including any discussions of a proposal to set the Canadian content requirement for Ontario Line subway vehicles at a percentage lower than 25%. Time period of the records: January 1, 2020 to November 17, 2022.

[2] On July 19, 2024, the ministry extended the time to respond by 180 days until January 15, 2025.

[3] On January 15, 2025, the ministry issued a notice of delay in accordance with section 28(4) of the *Act* and advised a final access decision would be issued by February 14, 2025.

[4] On May 6, 2025, the appellant appealed to the Information and Privacy Commissioner of Ontario (the IPC) because the ministry failed to issue a decision by the extended due date. File PA25-00338 was opened.

[5] On July 23, 2025, the IPC asked the ministry whether a final access decision had been issued and for a copy of the decision letter.

[6] On August 18, 2025, the ministry advised that it had not issued a final access decision to the appellant and could not provide an expected decision date.

[7] On September 8, 2025, I decided to conduct an expedited inquiry and issued a Notice of Expedited Inquiry, encouraging the ministry to issue a final decision by September 29, 2025.

[8] On September 25, 2025, the ministry advised that it would need to undertake multiple consultations and would not receive input from the affected parties by the due date.

[9] On September 26, 2025, I asked the ministry if it was issuing notices under section 28 of the *Act* and if it had begun the consultation process. I did not receive a response from the ministry.

[10] Considering the above, and to ensure there are no further delays in processing this access request, I will order the ministry to issue a final access decision to the appellant.

DISCUSSION:

[11] Section 26 of the *Act* outlines the time parameters for an institution to respond to an access request:

Where a person requests access to a record, the head of the institution to which the request is made or if a request is forwarded or transferred under section 25, the head of the institution to which it is forwarded or transferred, shall, subject sections 27, 28 and 57, within thirty days after the request is received,

(a) give written notice to the person who made the request as to whether or not access to the record or a part thereof will be given; and

(b) if access is to be given, give the person who made the request access to the record or part thereof, and where necessary for the purpose cause the record to be produced.

[12] The circumstances giving rise to a deemed refusal are set out in section 29(4) of the *Act*. This section states:

A head who fails to give the notice required under section 26 or subsection 28(7) concerning a record shall be deemed to have given notice of refusal to give access to the record on the last day of the period during which notice should have been given.

[13] Previous IPC orders have found that a decision to extend the time for responding to a request should be issued within the initial 30-day time limit for responding to a request.¹

[14] Where a time extension has been issued, it is expected that, prior to the expiry of the extension, subject to sections 28 and 57 of the *Act*, written notice will be given to the requester as to whether access to the record or a part thereof will be given and for access to the record to then be given to the requester. This is referred to as a final access decision. If a final access decision is not issued prior to the expiry of the time extension, the institution would be in a “deemed refusal” under section 29(4) of the *Act*.

[15] Previous IPC orders have found that issuing a time extension once the 30-day time limit has expired does not cure a deemed refusal.²

[16] The appellant requested records on June 7, 2024. On July 19, 2024, the ministry issued a time extension until January 15, 2025. As of today, the ministry has not issued its final access decision despite the appellant filing this appeal with the IPC and me issuing a Notice of Expedited Inquiry, encouraging it to do so by September 29, 2025.

[17] As a final access decision was not issued to the appellant by the extended due date and no decision has been issued to date, the ministry is deemed to have refused the access request.³

[18] Therefore, I find the ministry to be in a deemed refusal situation under section 29(4) of the *Act*.

[19] To ensure that there are no further delays, I will order the ministry to issue a final access decision to the appellant.

¹ Orders MO-1520-I, PO-2634.

² Orders MO-1777, PO-2595 and PO-2634.

³ The ministry may have already been in a deemed refusal position given that its time extension may have been claimed after the 30-day time limit to do so. This is less relevant given that the ministry has not issued a decision by the extended due date.

ORDER:

1. I order the ministry to issue a final access decision to the appellant regarding access to the records in accordance with the *Act*, by **October 21, 2025**.
2. To verify compliance, the ministry shall provide me with a copy by email of the decision referred to in provision 1 by **October 21, 2025**.

Original Signed by: _____

Asma Mayat
Case Lead

October 6, 2025