

Health Canada

Status report on access requests in a deemed-refusal situation

1. BACKGROUND

Every department reviewed has been assessed against the following grading standard:

% of Deemed Refusals	Comment	Grade
0-5%	Ideal compliance	A
5-10%	Substantial compliance	B
10-15%	Borderline compliance	C
15-20%	Below standard compliance	D
More than 20%	Red alert	F

This report reviews Health Canada's (HCan) progress to obtain ideal compliance with the time requirements of the *Access to Information Act*, since the previous report. In addition, this report contains information on the status of the recommendations made in the Status Report of January 2005.

2. COMPLIANCE HISTORY

In the January 1999 Report Card, Health Canada (HCan) received a red alert grade of "F" with a 51.2% deemed-refusal to request ratio for requests received from April 1 to November 30, 1998. For the complete 1998-1999 fiscal year, the ratio was 61.8%.

The next year, for the period April 1 to November 30, 1999, the ratio improved dramatically to 3.1%, or an "A" grade. In addition, the backlog of deemed-refusal requests was entirely eliminated.

HCan had continued to achieve a grade of "A", which signals ideal compliance with the *Access to Information Act*, for each of the reporting years since, with compliance ratios varying between 4.5-5% as in the last reporting period. However, the end of the fiscal year 2002-2003 found the department slipping to a 7.2% of deemed refusals, resulting in a grade of "B".

In the 2004 Status Report, it was noted that HCan achieved a 5.4% deemed-refusal ratio for the period April 1 to November 30, 2004, signaling another grade of "B" and substantial compliance with the *Access to Information Act*.

In the 2005 Report Card, HCan received a below standard compliance of "D" with a 17.2% request to deemed-refusal ratio for requests received from April 1 to November 30, 2004. This was the first year that requests carried over from the previous year, and the number of requests already in a deemed-refusal status on April 1, were taken into consideration.

For fiscal year 2004-2005, HCan received a grade of “D”, with a 19.6% request to deemed-refusal ratio.

3. CURRENT STATUS

For this reporting period, requests carried over from the previous year, and the number of requests already in a deemed-refusal status on April 1, were also taken into consideration. As a result, for the reporting period April 1 to November 30 2005, HCan’s request to deemed-refusal ratio was 18.9%, a grade of “D”.

A total of 1,164 requests were received during the period April 1 to November 30, 2005, compared to 901 requests received in the same time period last year. 273 requests were carried into the period April 1 to November 30, 2005, and this contributed to HCan’s backlog.

For fiscal year 2005/2006, HCan started the year with 273 pending access requests with 102 or 37% in a deemed-refusal situation.

With 1,363 new access requests received in fiscal year 2004-2005 and 1,164 new access requests received in the first nine months of fiscal year 2005/2006, a trend of a continuing backlog of access requests in a deemed-refusal situation at the start of the year represents a burden to the ATIP Division. This backlog constitutes a serious problem that must be dealt with to comply with the time requirements of the *Access to Information Act*.

One of the reasons for the backlog of access requests and the deemed-refusal situation was a chronic lack of resources needed to process access requests. In 2005, the ATIP Office was provided with additional funding to hire 15 additional person-years. The additional funding should permit to effectively eliminate all requests backlog by December 31, 2006.

4. RECOMMENDATIONS

Because of the factors described in this report, HCan was not able to achieve ideal compliance with the time requirements of the *Access to Information Act*.

Recommendation #1

The ATIP Division produce a monthly report that provides the ATIP Division and Senior Management at HCan with information on how well timelines are met when responding to access requests. The reports will provide Senior Management and the ATIP Division with information needed to gauge overall HCan compliance with the Act’s and HCan’s time requirements for processing access requests.

A critical component of the administration of the *Access to Information Act* is the leadership role of the ATI Coordinator and Senior Management in a department. Senior Management exercises leadership by identifying access to information as a departmental priority and then acting upon this by providing the appropriate resources, technology and policies. Together with the ATI Coordinator, it is important for Senior Management to create a culture of openness and access to departmental information. The ATI Coordinator is the departmental champion of access to information. In this respect, the Coordinator and their staff provide the skilled policy and procedural leadership and training for the access process to work effectively in a department.

Recommendation #2

HCan should come into ideal compliance with the Act's deadlines no later than March 31, 2007.

5. STATUS OF 2005 RECOMMENDATIONS

The following recommendations were made to support HCan's continuing efforts to process requests within the time requirements of the *Access to Information Act*:

Previous Recommendation #1

The ATIP office be provided with the necessary resources needed to re-attain ideal compliance with the *Access to Information Act*.

Action Taken: The most important action that the department took in response to last year's report was to commit an additional \$1,600,000 in funding.

Budget increases will permit the department to double the number of staff to meet the ATI processing needs of the department.

Previous Recommendation #2

That the Delegation Order be amended to provide the ATIP Coordinator with similar delegated powers for the administration *Privacy Act* as for the administration of the *Access to Information Act*.

Action Taken: The Delegation Order has not yet been amended. A new Delegation Order is being studied by the department.

6. QUESTIONNAIRE AND STATISTICAL REPORT

Questionnaire for Statistical Analysis Purposes in relation to official requests made under the <i>Access to Information Act</i>			
Part A: Requests carried over from the prior fiscal period.		Apr. 1/04 to Mar. 31/05	Apr. 1/05 to Nov. 30/05
1.	Number of requests carried over:	355	273
2.	Requests carried over from the prior fiscal — in a deemed refusal situation on the first day of the new fiscal:	112	102
Part B: New Requests — Exclude requests included in Part A.		Apr. 1/04 to Mar. 31/05	Apr. 1/05 to Nov. 30/05
3.	Number of requests received during the fiscal period:	1,363	1,164
4.A	How many were processed within the 30-day statutory time limit?	643	528
4.B	How many were processed beyond the 30-day statutory time limit where no extension was claimed?	25	26
4.C	How long after the statutory time limit did it take to respond where no extension was claimed?		
	1-30 days:	17	24
	31-60 days:	3	0
	61-90 days:	2	1
	Over 91 days:	3	1
5.	How many were extended pursuant to section 9?	640	451
6.A	How many were processed within the extended time limit?	350	158
6.B	How many exceeded the extended time limit?	98	42
6.C	How long after the expiry of the extended deadline did it take to respond?		
	1-30 days:	58	28
	31-60 days:	20	10
	61-90 days:	12	2
	Over 91 days:	8	2
7.	As of November 30, 2005, how many requests are in a deemed-refusal situation?	102	