

Privy Council Office

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 the Privy Council Office's (PCO) 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 1999 Report Card, PCO received a red alert grade of "F" with a 38.9% new request to deemed-refusal ratio for requests received from April 1 to November 30, 1998. For the complete 1998-1999 fiscal year, the ratio was 47.1%.

In the following year's review, it was reported that, for requests received from April 1 to November 30, 1999, the ratio improved remarkably to 3.6% and a grade of "A". The achievement was not sustained for the 2001-2002 reporting period. During the fiscal year 2001-2002, the new request to deemed-refusal ratio increased to 28.4%, a grade of "F".

However, for the period from April 1 to November 30, 2002, the ratio improved to 17.5% and a grade of "D", constituting below standard performance with the time requirements of the *Access to Information Act*. This ratio slipped to a 21.9% ratio, a grade of "F", for the full 2002-2003 fiscal year.

The 2004 Status Report for PCO reflected a substantial improvement in the institution's record. For the period April 1 to November 30, 2003, PCO achieved a 3.8% ratio for the new requests to deemed refusals, resulting in a grade of "A" and ideal compliance with the time requirements of the *Access to Information Act*.

In the 2005 Report Card, PCO received a red alert grade of "F" with a 26.5% 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 the full fiscal year 2004-2005, the ratio slipped to 31.5%, a grade of “F”.

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, PCO’s request to deemed-refusal ratio was 31.9%, a grade of “F”.

During the reporting period, PCO received 376 requests. This is an increase of 80 requests, over the 2004 reporting period wherein 296 were received. However, complexity and sensitivity of the requests were also factors in the time taken to process requests. As well, during this period, PCO had 117 backlogged files. Because of this situation, the Information Commissioner initiated complaints to identify the reason for such delays. PCO engaged itself to the Commissioner to clear the backlog completely by March 31, 2006.

4. RECOMMENDATIONS

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

Recommendation #1

That PCO attain ideal compliance and a grade of “A” by March 31, 2007.

Recommendation #2

Senior Management oversee the development of an access to information vision that can be communicated to PCO employees.

Continued improvement in performance is unlikely without more upper management participation and leadership. The Deputy Minister must take a hands-on role by receiving weekly reports showing the number of requests in a deemed-refusal situation, where the delays are occurring and what remedial action is being taken or proposed. The Deputy Minister should directly oversee the ATI Improvement Plan under which PCO will come into ideal compliance with the time requirements of the *Access to Information Act*.

Until Senior Management is actively engaged in the measures to identify and improve the factors that lead to requests in a deemed-refusal situation in the department, it will be difficult to come into ideal compliance with the Act’s timelines. Senior Management

should understand the nature of the problem and be involved in monitoring the success of the plan to reduce the number of requests in deemed-refusal situation.

Recommendation #3

That PCO's ATI Office fully implement a mandatory training program for all officers and senior managers, including Assistant Secretaries and Deputy Secretaries.

Although mandatory training has been carried out for half the department, the ATI Office should carry out the training for the remainder of the staff.

5. STATUS OF 2005 RECOMMENDATIONS

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

Previous Recommendation # 1

That PCO attain ideal compliance and a grade of "A", or a minimum substantial compliance and a grade "B", for the 2005-2006 reporting period.

Action Taken: Although PCO did not attain compliance to this objective, additional resources were provided to counter delays in the treatment of access requests. Vacant positions were filled. Also, additional resources of \$300,000 were provided in the 2005-2006 fiscal year, and it is estimated that additional resources of \$350,000 to \$ 400,000 will be provided for 2006-2007.

Previous Recommendation #2

That PCO fully implement the ATI Improvement Plan for the period 2005-2006.

Action Taken: A business plan has been developed by the ATI office. The 2005-2006 Access to Information Improvement plan recommends the following:

- consultants were retained to work on the backlog, leaving only 7 outstanding requests at the end of the fiscal year
- additional FTE's have been given to the office and staffing is ongoing
- ATIP office is in the process of being restructured

- a new delegation order was created and a further full delegation to the ATI Director is in progress
- mandatory training has been carried out for half the department and the remainder is in process
- performance reporting had been and will continue to be done.

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:	116	169
2.	Requests carried over from the prior fiscal C in a deemed refusal situation on the first day of the new fiscal:	32	76
Part B: New Requests C 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:	480	376
4.A	How many were processed <i>within</i> the 30-day statutory time limit?	188	161
4.B	How many were processed beyond the 30-day statutory time limit <i>where no extension was claimed?</i>	51	18
4.C	How long after the statutory time limit did it take to respond <i>where no extension was claimed?</i>		
	1-30 days:	33	8
	31-60 days:	6	4
	61-90 days:	10	4
	Over 91 days:	2	2
5.	How many were extended pursuant to section 9?	182	119
6.A	How many were processed <i>within</i> the extended time limit?	43	35
6.B	How many exceeded the extended time limit?	29	12
6.C	How long after the expiry of the extended deadline did it take to respond?		
	1-30 days:	13	9
	31-60 days:	6	0
	61-90 days:	3	2
	Over 91 days:	7	1
7.	As of November 30, 2005, how many requests are in a deemed-refusal situation?		68