

# Citizenship and Immigration 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 percent	Ideal compliance	A
5-10 percent	Substantial compliance	B
10-15 percent	Borderline compliance	C
15-20 percent	Below standard compliance	D
More than 20 percent	Red alert	F

This report reviews Citizenship and Immigration Canada's (CIC) progress to attain substantial 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 2004.

### 2. COMPLIANCE HISTORY

In early 1999, the Office of the Information Commissioner issued a Report Card on the department's compliance with the statutory time requirements of the *Access to Information Act*. In the 1999 Report Card, the department received a red alert grade of "F" with a 48.9% request to deemed-refusal ratio.

In January 2000, the Office of the Information Commissioner reviewed the status of the recommendations made in the Report Card and made further recommendations for measures to reduce the number of access requests in a deemed-refusal situation. From April 1 to November 30, 1999, the deemed-refusal ratio for access requests improved to 23.4% still a grade of "F".

In January 2001, the Commissioner's Office review reported that the department had set an objective in 2000-2001 of completing 70% of access requests within the timelines of the Act. The view of the Office of the Information Commissioner was that the objective fell short of what was needed to comply with the time requirements of the Act. The actual performance of the department for 2000-2001 was a 19.6% new request to deemed-refusal ratio resulting in a Grade of "D", denoting below standard performance.

In January 2002, the Commissioner's Office issued another Status Report and recommendations. For the period of April 1 to November 30, 2001, the new request to deemed-refusal ratio was reduced to 13%, denoting a grade of "C". The momentum was sustained for the full fiscal year of 2001-2002 achieving a grade of "C" with a new request to deemed-refusal ratio of 12%.

The January 2003 review reported that CIC had joined a select group of departments who have achieved a grade of “A” that denoted ideal compliance with the statutory time requirements of the *Access to Information Act*. For the period from April 1 to November 30, 2002, the new request to deemed-refusal ratio was 3.8%, with the ratio slipping only marginally to 4.9% for the full fiscal year, still a grade of “A”. This constituted a significant achievement by CIC departmental staff and management dealing with the access request process. The department was highly commended for its efforts and encouraged to maintain this performance.

Although CIC had made steady progress in reducing the number of access requests in a deemed- refusal situation, the department slipped considerably in its performance for the period April 1 to November 30, 2003. CIC’s deemed-refusal to requests received ratio was 15.4% for a grade of “D”, reflecting below standard performance.

### 3. CURRENT STATUS

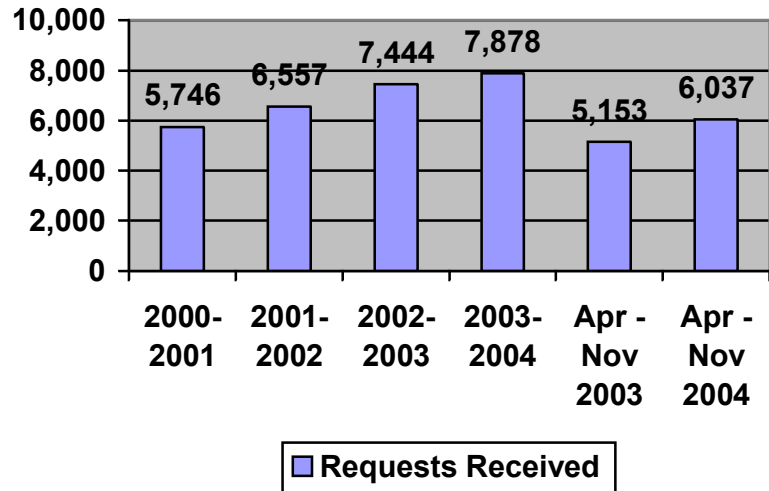
For the reporting period April 1 to November 30, 2004, those requests carried over from the previous year, as well as the number of requests already in a deemed-refusal status on April 1, were taken into consideration. As a result, for the period April 1 to November 30, 2004, CIC’s deemed-refusal to requests received ratio was 13.8% for a grade of “C, denoting borderline compliance. Since this is the first year that the figures were calculated differently, the following will show the compliance levels utilizing both the previous and current formulas for last year’s and this year’s status reports.

<b>Previous Formula Apr 1 – Nov 30, 2003</b>	<b>Current Formula Apr 1 – Nov 30, 2003</b>
15.4%	14.1%

<b>Previous Formula Apr 1 – Nov 30, 2004</b>	<b>Current Formula Apr 1 – Nov 30, 2004</b>
12.1%	13.8%

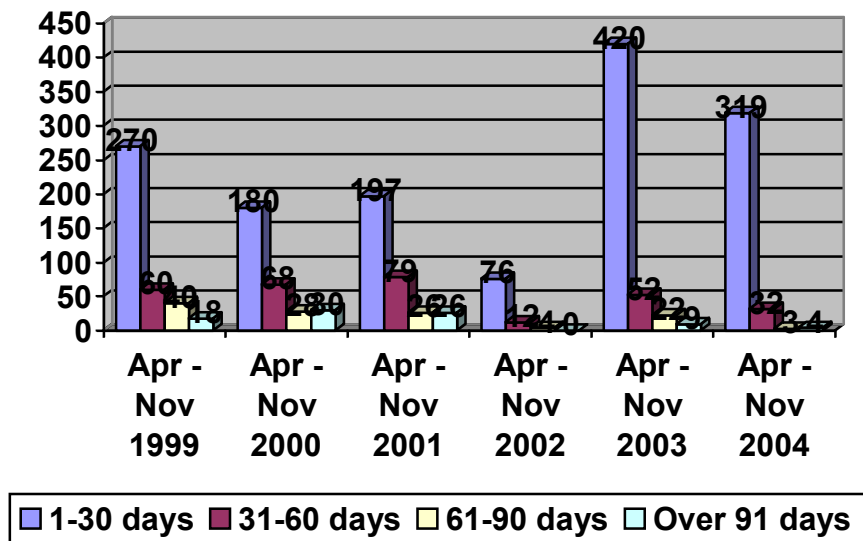
During the period April 1 to November 30, 2004, 6,037 requests were received compared to the same period last year in which 5,153 requests were received. This is an additional

884 requests for a 17.2% increase in requests, which is quite significant. The graph below shows the steady increase in requests over the years.



There is currently 40 to 45 ATIP staff at any given time. There are 23 FTEs, the remaining being consultants, terms, casuals or agency employees. This is the same number of employees as last year. If we consider that CIC processed about 8,646 access requests last year, and that there are 17-18 analysts at any given time processing files (including consultants and considering that some analysts are dedicated to project/policy work and training), the average number of requests processed by each analyst is about 480 per year. The ATIP Division is also responsible for administrating the Human Rights Act at CIC.

In the past year, the ATIP Division's ability to process requests, after the first 30 days where no extension was claimed, has improved (358 compared to 503). The graph below shows the time taken to respond to non-extended requests in a deemed-refusal situation:



As was reported last year, CIC underwent considerable structural changes in function and organization with the creation of the Canada Border Security Agency (CBSA). At the time last year's report was being drafted, it was unclear what the effect the total reorganization would have on the ATIP workload. It was anticipated that some resources might have to be given up to CBSA. As a result of the transition, improvements to the access process were limited until roles and responsibilities were clearly identified. The ATIP Director stated that negotiations between CIC and CBSA officials are still ongoing and that ATIP Division management meets weekly with CIC officials on this matter. There have been no changes to CIC ATIP resources thus far.

Senior ATIP officials stated that there has been a major problem dealing with access requests for emails. To address this problem, the ATIP Division has developed a two-step process: 1) The requester is sent a list of emails contained in the email print-screen showing the to/from, subject, and dates; 2) The requester highlights the emails he/she is interested in and sends the list back to the ATIP Division for processing of the selected emails. As a result, this has helped to narrow the scope of such requests significantly by eliminating hundreds of emails. In addition, the ATIP Division provides email management training to CIC officials and has worked on this in collaboration with the Information Management Branch at CIC.

A more proactive communication approach with requesters has also helped to narrow the scope of other types of requests. Informal access without having to apply under the *Access to information Act* for information is also encouraged. Information such as financial reports, statistics, commonly requested information (where there are no exemptions), travel and hospitality contracts over \$10K, and malfeasance reports, are being made available on an informal basis whenever possible.

To assist CIC officials in processing information and responding to requests, the Intranet was launched to provide CIC staff with useful information such as: Questions and Answers (Q's & A's), Frequently Asked Questions (FAQ), Information Processing (under ATI), Guidance Information, links to Treasury Board Secretariat, etc. The CIC Internet site provides the public with forms, what kind of information is available at CIC, information regarding ATI, etc.

Additional technological improvements are being looked at. For instance, some CIC Branches are emailing records electronically to the ATIP office in response to access requests. There is a desire at CIC to transfer records electronically, as much as possible, as opposed to paper records.

A presentation was made by the ATIP Division recently to the DG Committee regarding ATIP concerns and resource needs. This will in turn be going up to Senior Management for a decision.

#### 4. FURTHER RECOMMENDATIONS

While CIC is not receiving as many bulk requests as before, there is still a backlog of over 300 complex files made by bulk requesters. Nevertheless, CIC should strive to attain at least substantial compliance with the time requirements of the *Access to Information Act*.

*Recommendation #1*

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**CIC commit to attaining substantial compliance with the time requirements of the *Access to Information Act* for 2005-2006.**

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The ATIP Director stated that more permanent resources are needed to recruit and retain more highly qualified analysts. As noted above, there has been a steady increase in requests over the years, yet the number of staff in the ATIP Division has not increased from last year in order to keep up with the demand.

*Recommendation #2*

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**The ATIP Division prepare and present a business plan to senior management in order to obtain the resources needed to eventually attain ideal compliance with the time requirements of the *Access to Information Act*.**

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The ATIP Division plans to update its processing manual by the end of fiscal year 2004-2005 and to circulate the document to Branch ATI Coordinators for comments before finalizing it and placing it on the department's Intranet.

*Recommendation #3*

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**The ATIP Division's processing manual be placed on CIC's Intranet site during the fiscal year 2005-2006.**

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#### 5. STATUS OF 2004 RECOMMENDATIONS

The following recommendations were made to support CIC's efforts to reduce deemed-refusal access requests and attain at least substantial compliance with the time requirements of the *Access to Information Act*:

*Previous Recommendation #1*

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**CIC review its current practice in which it deals with bulk requesters (information brokers) to determine whether or not the current extension practices are the most appropriate manner to deal with the volume of records being sought.**

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**Action Taken:** CIC has reviewed its current practice regarding this matter. There is one bulk requester who used to submit between 50 to 75 access requests per month. As a result of discussions with this requester, CIC was able to work with him to reduce the inventory of his files and the scope of his requests. Although the number of new requests submitted from this requester has dropped, it is not known how long this reduced number of requests will last. There are other bulk requesters, but requests from them so far have not been problematic.

Extensions have been studied and are dealt with elsewhere in this report in greater detail. Essentially, consultations involving files from missions outside Canada, for which Foreign Affairs Canada has responsibility, have been the main focus of attention with respect to extensions.

*Previous Recommendation # 2*

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**CIC make a commitment to attain substantial compliance with the time requirements of the *Access to Information Act*.**

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**Action Taken:** CIC did not attain substantial compliance in 2004. The ATIP Director stated that temporary funding to the ATIP Division made it difficult to properly manage resources. As mentioned, there is a high volume of requests and records and this is coupled with a lack of predictability regarding bulk requesters. In addition, requesters are not always willing to narrow the scope of requests to keep the number of records manageable to enable the processing of requests within the legislated timeframes. However, the ATIP Director stated that the ATIP Division has become more proactive in raising awareness of ATI within the department. The ATIP Division has been working very hard at this over the course of the year and a difference can be seen as a result of this across the department. Changes have also been made to the delegation of authority to reduce bottlenecks in the Division allowing for quicker processing of files. Comprehensive semi-annual reports are being submitted to senior management (DG /ADM / DM). Beginning in February 2005, monthly reports on ATIP are being sent to all Branches and Sectors and the ADM's office. There is an ongoing training program for CIC officials, including specific training offered to Branches with special needs to assist them in the processing of certain types of records.

*Previous Recommendation #3*

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**CIC review its procedures to initiate a more stringent monitoring mechanism to track the progress of requests to improve the new requests to deemed-refusal ratio.**

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**Action Taken:** A BF (Bring Forward) system to monitor due dates was put in place within ATIPflow and monitored by administration staff and analysts. The ATIP Director is directly involved in doing follow-ups with OPI Directors / Directors General to get ATI deadlines met. The ATIP Division provides a monthly report to DGs and weekly reports to Branch ATIP Coordinators on the status of requests.

There is a 5-day turnaround time for OPIs to provide records in response to requests. OPIs also need to communicate with the ATIP Division within this timeframe if the records cannot be provided in the 5 days. There is also a 5-day turnaround time when the ATIP Division consults with OIPs during the review process.

The ATIP Division has put in place two approaches to processing requests: 1) a fast-track approach for non-complex records/information. This occurs predominantly for client case files and requests for immigration file records from the Field Operation Support System (FOSS); 2) a regular approach for complex, voluminous and/or sensitive records pertaining to CIC program records and requests for emails, etc.

## 6. QUESTIONNAIRE AND STATISTICAL REPORT

Questionnaire for Statistical Analysis Purposes in relation to official requests made under the <i>Access to Information Act</i>			
Requests carried over from the prior fiscal period.		Apr. 1/03 to Mar. 31/04	Apr. 1/04 to Nov. 30/04
1.	Number of requests carried over:	1,087	1,350
2.	Requests carried over from the prior fiscal — in a deemed refusal situation on the first day of the new fiscal:	82	292
New Requests — Exclude requests included in Part A.		Apr. 1/03 to Mar. 31/04	Apr. 1/04 to Nov. 30/04
3.	Number of requests received during the fiscal period:	7,878	6,037
4.A	How many were processed <i>within</i> the 30-day statutory time limit?	5,102	4,652
4.B	How many were processed beyond the 30-day statutory time limit <i>where no extension was claimed?</i>	708	358
4.C	How long after the statutory time limit did it take to respond <i>where no extension was claimed?</i>		
	1-30 days:	545	319
	31-60 days:	80	32
	61-90 days:	39	3
	Over 91 days:	44	4
5.	How many were extended pursuant to section 9?	1,587	1,019
6.A	How many were processed <i>within</i> the extended time limit?	876	556
6.B	How many exceeded the extended time limit?	258	78
6.C	How long after the expiry of the extended deadline did it take to respond?		
	1-30 days:	115	51
	31-60 days:	70	15
	61-90 days:	24	5
	Over 91 days:	49	7
7.	As of November 30, 2004, how many requests are in a deemed-refusal situation?		<b>293</b>



