Human Resources and Skills Development 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

On December 12, 2003, HRDC was divided into two departments: Social Development Canada, and Human Resources and Skills Development Canada (HRSDC). This led to the ATIP Directorate being divided into two distinct entities, one for each department.

This report examines HRSDC's performance in attaining at least 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

HRDC was the first department to achieve a grade of "A" in its initial Report Card. In January 2000, HRDC reported that all access requests completed between April 1 and November 1, 1999, were processed within the time requirements of the *Access to Information Act*. At that time, the department had, in their words, a "zero tolerance policy" for access requests in a deemed-refusal situation.

In fiscal year 2000-2001, two events created an extraordinary volume of access and privacy requests. A Grants and Contributions Audit Report generated a large volume of access requests. From a typical volume of approximately 450 requests, an additional approximately 1,443 access requests were received. In addition, events around the Longitudinal Files generated some 70,000 privacy requests. The volume of requests overwhelmed the department's access process and the Access to Information and Privacy Directorate. At one point, 150 additional employees were working in two shifts to process requests.

In fiscal year 2000-2001, the new request to deemed-refusal ratio was 53.4%. In fiscal year 2001-2002, the ratio was 39.5%. In each of these fiscal years, the ratio represented a grade of "F".

One response to the high volume of requests and processing time constraints was the creation of a Review Committee to ensure that the information to be disclosed for an access request was consistent with the information requested. Each request was reviewed as part of the access process but independent from the ATIP Directorate for what ended up to be essentially a communications review. The added review resulted in delays to the access process and access requests in a deemed-refusal situation. Since then, the review group--the Analysis Unit--was relocated to the ATIP Directorate.

Although the period April 1 to November 30, 2002, saw the department's compliance ratio rise marginally to a grade of "D", the actual fiscal year figure fell again to "F".

In the 2004 Status Report, it was noted that the department continued to struggle during the period April 1 to November 30, 2003, posting another "F" grade.

The year 2003 saw a major reorganization take place in HRDC. A department wide Corporate Services review resulted in a number of divisions being realigned and restructured, including the Access to Information Division. This reorganization also realigned regional units affecting timely OPI identification. This was particularly troublesome where responsibilities moved within regional divisions without the transfer of personnel. A considerable amount of training had to take place resulting in a slow down of services and responses.

The volume of requests in concert with the transition, and the fact that many of these requests were very complex in nature involving a large number of pages, impacted negatively on the overall process in meeting timeframes.

The ATIP Directorate was then moved under the responsibility of Communications. This move had positive effects on the access process as the ADM responsible for Legislative Requirements now also had the responsibility for Communications, leading to an increased promotion of the ATI Act, a streamlining of the process, and a decrease in the need for communications activities.

3.   CURRENT STATUS

Since HRDC was separated into two departments: Human Resources and Skills Development Canada (HRSDC), and Social Development Canada, it would have been very time consuming for HRSDC to produce the requested data for the entire fiscal year. As such, for fiscal year 2003-2004, the data for HRSDC consisting of requests received by HRSDC, reflects the time period April 1, 2003 to December 11, 2003, only. HRDC's database was modified at the beginning of the current fiscal year to separate data regarding each of the two new departments. This Status Report captures the period April 1 to November 30, 2004, for HRSDC.

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 factored into the calculations. During the period April 1 to November 30, 2004, HRSDC achieved a remarkable 3.0% deemed-refusal ratio and a grade of "A", denoting ideal compliance.

This would seem to indicate that, with respect to the administration of the *Access to Information Act*, HRSDC has adequately addressed and adjusted to the new organizational challenges faced as a result of becoming a new department.

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.

Previous Formula Apr 1 – Nov 30, 2003	Current Formula Apr 1 – Nov 30, 2003
39.3%	40.2%

Previous Formula Apr 1 – Nov 30, 2004	Current Formula Apr 1 – Nov 30, 2004
3.2%	3.0%

There are currently 25 FTEs in the ATIP Directorate at HRSDC, which is responsible for the administration of the *Access to Information Act*, the *Privacy Act*, as well as the *Human Rights Act* in the department.

ATIP training is also an ongoing activity at HRSDC and the Director and senior officials in the ATIP Directorate are very conscious of the necessity of having well-trained employees in the administration of the Acts. To that end, a number of in-house training sessions have been held during the year for new OPIs and managers at HRSDC in the Ottawa area, and regional offices throughout the country. Senior officials within the ATIP Directorate provided 30 ATIP training sessions across the country between April 1, 2004, and March 31, 2005.

Various process initiatives have been developed by the ATIP Directorate in order to impart, to HRSDC officials, various ATIP requirements, such as:

- Access to Information Oversight Report. This report is shared with all executive heads on a quarterly basis and provides statistical information on branch/region compliance.

- Reminders to executive heads and quarterly meetings. Emails are sent when there is a delay in the receipt of documents or sign-offs. Quarterly discussions are held among senior officials to address ATIP issues.

- Training and Communications activities.

- Guidelines for designated branch/regional liaison officer. Two documents describing key areas of processing requests are available on the Communications Intranet site. They are entitled, "Roles and Responsibilities – ATIP Liaison

Officer" and "Guidelines for Assembling Relevant Records Requested in an Access to Information Request".

Statistics provided indicate that there is general compliance by most OPIs within HRSDC regarding days taken to provide documents and to sign-off on files. The objective set by the ATIP Directorate is 8 days for the provision of documents by OPIs. For the third quarter of fiscal year 2004-2005, the average time taken was 6.7 days. With respect to sign-offs, the objective set is 4 days. For the same quarter, the average time was 3.1 days.

4.   FURTHER RECOMMENDATIONS

For the period April 1 to November 30, 2004, HRSDC surpassed last year's objective of attaining minimal substantial compliance with the time requirements of the *Access to Information Act*.

Recommendation #1

That HRSDC maintain for 2005-2006, ideal compliance with the time requirements of the *Access to Information Act.*

ATIP software and hardware is being upgraded within the ATIP Directorate. It is expected that the implementation of ATIP*image*, before the end of fiscal year 2004-2005, will greatly assist the ATIP Directorate in maintaining ideal compliance with the time requirements of the *Access to Information Act*.

Recommendation #2

That all required staff within the ATIP Directorate be fully trained in the application of ATIP*image* and that the technology be fully integrated into the ATIP process as early as possible in 2005.

The Communications aspect of the process was further streamlined in July 2004. The Director of Communications of the program/region that provides the documents is now responsible for deciding whether or not media lines are required at the beginning of the process. On requests where media lines are required, communications and ATIP activities run in parallel, rather than subsequent to one another.

Recommendation #3

That the ATIP Directorate monitor the streamlined approach to Communications to ensure that it is being followed.

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5.   STATUS OF 2004 RECOMMENDATIONS

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

Previous Recommendation # 1

The ATIP Director is directly responsible for ensuring compliance with the *Access to Information Act*, and should continue to take a strong leadership role in establishing a culture of compliance throughout HRDC. Such a role requires the unwavering support and endorsement of the Minister and the Deputy Minister. The department should reinstate its exemplary "zero tolerance" policy for deemed refusals.

Action Taken: The ATIP Director's office developed a strategy to obtain compliance aimed at obtaining "zero tolerance". The Deputy Minister supported this strategy by sending a directive to all Assistant Deputy Ministers across the department that timelines for responding to ATI requests must be adhered to. The Deputy Minister meets with the Minister regularly in which ATIP issues are discussed. The Minister's Office highly supports the zero tolerance policy for deemed refusals.

Previous Recommendation #2

HRDC set an objective for 2004-2005 to attain at a minimum substantial compliance with the time requirements of the *Access to Information Act*.

Action Taken: HRSDC surpassed this objective by achieving ideal compliance and a grade of "A" for the period April 1 to November 30, 2004. The following steps were taken to accomplish this:

- Effective December 12, 2003, the ADM of Communications established a streamlined process for the preparation of media lines for ATI requests. Communications staff was advised of specific criteria to use when determining whether or not media lines are necessary. Not all requests require the preparation of media lines.

- A response sheet was developed that is completed by the OPI and included when documents are provided. On this sheet, the OPI indicates that the proper documents have been assembled, recommendations and rationale on exemptions and whether or not the documents should be returned for signoff. Alternatively, they may indicate that no documents exist or that search fees are required. As mentioned below, the response sheet has evolved in July 2004 to include a section to be completed by Communications officials.

- A zero-tolerance policy for late responses was established at HRSDC in 2004.

- In 2004, the Deputy Minister reminded executive heads of the importance of respecting timelines established in the *Access to Information Act*.

- The importance of respecting the timelines established in the Access to Information Act was reiterated at the National Management Board meeting.

- A document entitled "Tools to Improve Efficiency" was created and distributed to Executive Heads.

- The ATI Oversight Report (now called ATI Compliance Report) continues to be distributed to the Branches/Regions.

- As of April 2004, a new process was put in place to eliminate the duplication of efforts on requests for information that is under the control of the Employment Programs Operations (EPO) and that is located in the regions. Rather than retrieving the documents and signoffs from both groups (NHQ and the region involved), HRSDC now requires input only from the EPO Branch at NHQ on these requests.

- As of May 2004, a similar process to the EPO processed mentioned above was established for requests regarding the Labour Program. Again this is in place to eliminate the duplication of efforts on requests for information that is under the control of the Labour Program and that is located in the regions.

- Starting in July 2004, bilateral meetings between the Director General of Corporate Communications and executive heads that are challenged by the objectives were held.

- The Communications aspect of the process was further streamlined in July 2004. The Director of Communications of the program/region that provides the documents is now responsible for deciding whether or not media lines are required at the beginning of the process. On requests where media lines are required, communications and ATIP activities run in parallel, rather than subsequent to one another.

- ATIP software and hardware is being upgraded, which will lead to higher efficiency. HRSDC systems people are currently running the required tests.

The Director of ATIP stated that HRSDC will try its best to maintain ideal compliance and its "zero tolerance" policy. It is believed that the installation of ATIP*image*, which is expected to be completed before the end of February 2005, will go a long way towards accomplishing this objective.

6.   QUESTIONNAIRE AND STATISTICAL REPORT

Questionnaire for Statistical Analysis Purposes in relation to official requests made under the *Access to Information Act*			
Requests carried over from the prior fiscal period.		**Apr. 1/03 to Dec. 11/03**	**Apr. 1/04 to Nov. 30/04**
1.	Number of requests carried over:	73	50
2.	Requests carried over from the prior fiscal — in a deemed refusal situation on the first day of the new fiscal:	32	1
New Requests — Exclude requests included in Part A.		**Apr. 1/03 to Dec. 11/03**	**Apr. 1/04 to Nov. 30/04**
3.	Number of requests received during the fiscal period:	274	187
4.A	How many were processed *within* the 30-day statutory time limit?	130	117
4.B	How many were processed beyond the 30-day statutory time limit *where no extension was claimed*?	77	2
4.C	How long after the statutory time limit did it take to respond w*here no extension was claimed*?		
	1-30 days:	74	2
	31-60 days:	3	0
	61-90 days:	0	0
	Over 91 days:	0	0
5.	How many were extended pursuant to section 9?	48	49
6.A	How many were processed *within* the extended time limit?	11	34
6.B	How many exceeded the extended time limit?	24	3
6.C	How long after the expiry of the extended deadline did it take to respond?		
	1-30 days:	18	2
	31-60 days:	5	1
	61-90 days:	1	0
	Over 91 days:	0	0
7.	As of November 30, 2004, how many requests are in a deemed-refusal situation?		1