

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 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 the Privy Council Office's (PCO) progress in maintaining 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 2004.

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*.

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 taken into consideration. As a result, for the reporting period April 1 to November 30, 2004, PCO's level of

compliance was 26.5%, a grade of “F” and red alert. 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
3.8%	12.8%

Previous Formula Apr 1 – Nov 30, 2004	Current Formula Apr 1 – Nov 30, 2004
26.4%	26.5%

The volume of requests in the fiscal year 2004-2005 was a significant issue, as PCO received 480 requests, the most ever. Complexity and sensitivity of the requests was also a factor in the time taken to process requests. The reorganization of the department before and after the last election (PCO is the Prime Minister’s department) greatly increased the workload of OPIs and posed additional challenges to the department with respect to the processing of access requests.

The Gomery and Arar inquiries created a lot of time-consuming work within PCO secretariats. Regarding the Gomery inquiry, there was some difficulty in getting records relating to the Sponsorship Program. With respect to the Arar inquiry, one FTE in the ATIP office has been working full time on the case since August 2004. This meant that other ATIP officers had to shoulder more work as a result.

The Coordinator reported that there is still a high turnover of officials within OPIs. Generally speaking, officials in OPIs are brought in to PCO for short periods, usually no more than three years, and then move on to other departments. The user manual *Access to Information in the Privy Council Office*, produced in 2002, has continued to assist OPIs better understand their roles and responsibilities in the administration of the *Access to Information Act*. Positive feedback to that effect has been expressed by OPIs to the ATIP Office.

4. FURTHER RECOMMENDATIONS

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

Recommendation #1

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

PCO has now prepared an ATI Improvement Plan for 2005-2006. Such a plan would identify the specific sources of the delays and include targets, tasks, deliverables, milestones and responsibilities to achieve acceptable compliance under the *Access to Information Act*.

Recommendation #2

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

5. STATUS OF 2004 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

PCO is encouraged to set an objective of 5% or better to maintain the grade of “A” for the new request to deemed-refusal ratio for 2004-2005.

Action Taken: PCO was unable to maintain the grade of “A” for this reporting period. The Coordinator and Deputy Coordinator of ATIP stated that there were a number of factors that contributed to the drop in this year’s compliance rating. Besides the work involved with respect to the Gomery and Arar inquiries, an additional 30 requests were received from April 1 to November 30, 2004, compared to the same period last year, for an increase of 11.3%. This increase is equal to one full-time employee of the current 17 FTEs in the ATIP Office. As mentioned, PCO received the largest number of requests ever – 480 new requests in the fiscal year.

Previous Recommendation #2

PCO develop an ATI Improvement Plan based on an analysis of deemed-refusal access requests to bring the department into ideal compliance with the time requirements of the *Access to Information Act* by April 1, 2004.

Action Taken: At the time of the interview with the Coordinator and Deputy Coordinator of ATIP, no improvement plan had been developed. However, since then an improvement plan has been prepared for 2005-2006.

Previous Recommendation # 3a

PCO continue to review their process to determine how the access process can be streamlined to reduce multiple referrals to OPIs.

Action Taken: No action was taken. The Coordinator and Deputy Coordinator of ATIP expressed the view that the referral process is difficult to streamline from the current one that seems to work best for the organization. There is a 3-step process in place at PCO for administrating requests: 1) Records Search, 2) Review of Records, and 3) Signoff or Approval. In a lot of requests, the records may involve more than one OPI; however, the OPI with the greatest interest in the records, is responsible for the final sign-off.

The user manual *Access to Information in the Privy Council Office* describes the following approval short-cut:

“During the OPI review phase, the OPI may prepare and submit a memorandum to the ATIP Office, signed by the OPI Head, recommending that: a) the records package can be released in full; or b) only mandatory exemptions apply, as specifically indicated. If there are no subsequent changes to the records, instead of returning it to the OPI for approval, the ATIP Office may use the recommendation memorandum as the release authority...”

Confirmation is received from the OPI before moving the file forward and any communications implications are addressed at that time. The Record of Decision is finalized and the file then goes directly to the ADM, Corporate Services for final approval before the response goes out to the requester. In such cases, this process eliminates the multi-tiered approval process. Although this procedure is carried out in only a small number of requests, it still eliminates some “red tape”, and is nonetheless a positive initiative on the part of the ATIP Office.

Previous Recommendation # 3b

PCO review their Delegation Order to provide more delegated powers to the Coordinator as in many other departments.

Action Taken: Although the Delegation Order was updated in July 2003, whereby additional delegated power was given to the Assistant Deputy Minister, Corporate Services, no additional power was given to the ATIP Coordinator. The ATIP Coordinator reports to the ADM, Corporate Services.

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. 1/03 to Mar. 31/04	Apr. 1/04 to Nov. 30/04
1.	Number of requests carried over:	109	115
2.	Requests carried over from the prior fiscal C in a deemed refusal situation on the first day of the new fiscal:	30	31
Part B: New Requests C 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:	457	296
4.A	How many were processed <i>within</i> the 30-day statutory time limit?	244	139
4.B	How many were processed beyond the 30-day statutory time limit <i>where no extension was claimed?</i>	5	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:	4	13
	31-60 days:	0	1
	61-90 days:	1	4
	Over 91 days:	1	0
5.	How many were extended pursuant to section 9?	176	98
6.A	How many were processed <i>within</i> the extended time limit?	72	27
6.B	How many exceeded the extended time limit?	21	9
6.C	How long after the expiry of the extended deadline did it take to respond?		
	1-30 days:	14	5
	31-60 days:	3	2
	61-90 days:	2	0
	Over 91 days:	2	2
7.	As of November 30, 2004, how many requests are in a deemed-refusal situation?		51