

**Atlantic Canada
Opportunities Agency**



*Access to Information Act and
Privacy Act*
Annual Report to Parliament

April 1, 2004 to March 31, 2005

PREFACE

The *Access to Information Act* and the *Privacy Act* (Revised Statutes of Canada, Chapter A-1, 1985) were proclaimed on July 1, 1983.

The *Access to Information Act* gives all individuals and corporate entities present in Canada a right of access to information contained in government records subject to certain specific and limited exceptions.

The *Privacy Act* extends to individuals the right of access to information about themselves. This law also protects an individual's privacy by preventing others from having access to personal information and gives individuals substantial control over its collection and use.

Section 72 of the *Access to Information Act* and Section 72 of the *Privacy Act* require that the head of every government institution shall prepare, for submission to Parliament, an annual report on the administration of the Acts within the institution during each financial year.

This annual report is intended to describe how the Atlantic Canada Opportunities Agency administered its responsibilities in the operation of the *Access to Information Act* and the *Privacy Act*.

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INTRODUCTION

The Atlantic Canada Opportunities Agency (ACOA) is a federal government institution headquartered in Moncton, New Brunswick. Its mission is to improve the economy of Atlantic Canadians communities through the successful development of business and employment opportunities.

ACOA delivers a wide variety of programs and services for aspiring entrepreneurs, business owners and managers, non-commercial organizations, communities, as well as academic and research institutions throughout the region.

In each provincial capital in Atlantic Canada, regional Vice-Presidents are responsible for the delivery of ACOA programs. In Sydney, Nova Scotia, the Vice-President of Enterprise Cape Breton Corporation (ECBC) is responsible for delivering ACOA's programs in Cape Breton. Each Vice-President is equipped with delegated authorities from the Minister to approve most projects and proposals.

Through its Ottawa office, ACOA advocates on behalf of Atlantic Canadians in the development of national policies and programs, and assists the region's entrepreneurs in the procurement of government contracts.

ACOA legislation provides for an ACOA Advisory Board. The Board comprises the President of ACOA and five other members who represent all areas in Atlantic Canada. The President of ACOA is the Chairperson.

The President of ACOA is also CEO and Chair of the Board of Directors of Enterprise Cape Breton Corporation (ECBC). ECBC is a Crown corporation established by legislation to promote and assist the financing and development of industry on Cape Breton Island, in order to provide employment outside the coal-producing industry and to broaden the base of the economy of Cape Breton Island.

While ECBC and ACOA have a close working relationship, and many ACOA programs are delivered in Cape Breton through the Corporation, ECBC is a separate entity and reports separately to Parliament through the Minister. Although ECBC is not subject to the *Access to Information and Privacy Acts*, the Corporation must adhere to the *Personal Information Protection and Electronic Documents Act*.

ADMINISTRATION OF THE *ACCESS TO INFORMATION AND PRIVACY ACTS*

1. DELEGATION OF AUTHORITY

The President of the Agency is designated as the head of the government institution for the purpose of both the *Access to Information Act* and the *Privacy Act* and has, in turn, delegated this authority to the Vice-President, Finance and Corporate Services.

The Access to Information and Privacy (ATIP) Director/Coordinator has been delegated the authority to oversee the administration of the Acts and to ensure compliance with the legislation. The Director/Coordinator reports to the Corporate Secretary who, in turn, reports to the Vice-President, Finance and Corporate Services.

The administration of the legislation within the Agency is also facilitated at the branch and regional office levels. Each organizational sector has a Liaison Officer who co-ordinates the records retrieval process.

2. ACOA'S POLICIES AND PROCEDURES

In 2004-2005 the Agency finalized its Policy and Procedures Manual on the administration of the ATIP legislation. All employees were notified of its posting on the Agency's intranet site and were advised to contact any member of the ATIP team with any questions or concerns.

It is Agency policy to routinely release in an informal manner any information that does not qualify for an exemption or that is not excluded under the *Access to Information Act* or *Privacy Act*. The Agency supports improved accessibility of government information to the public. In this regard, it provides public access to a database of information relating to funding of projects approved under many of its programs. The database that provides information on projects approved by ACOA since 1995 is available at: <http://pub.acoa-apeca.gc.ca/atip/e/content/default.asp>.

Information related to travel and hospitality expenses of selected officials, position reclassifications, and contracts awarded over \$10,000 is available on the Agency's Web site at: <http://cms.acoa-apeca.gc.ca/disclosure/content>

The Agency also provides access to summaries of internal audits and evaluations on its Web site at: <http://www.acoa-apeca.gc.ca/e/library/audit.shtml>

3. INFORMATION HOLDINGS

A description of the classes of institutional records held by the Agency can be found in the Treasury Board of Canada publications entitled *Info Source – Sources of Federal Government Information* as well as *Sources of Federal Employee Information*. (The Atlantic Canada Opportunities Agency does not have exempt banks.)

The above-mentioned publication can be found in public and academic libraries, constituency offices of federal members of Parliament, and on the Internet. The chapter produced by ACOA is available at http://infosource.gc.ca/inst/aco/fed00_e.asp.

4. READING ROOM

The library at the Agency Head Office in Moncton has been designated as the public reading room for the purpose of reviewing publications and other public materials.

5. EDUCATION AND TRAINING ACTIVITIES

During the reporting period, an information session was delivered to ACOA clients and Account Managers in the Prince Edward Island regional office and to Communications staff at the Head Office. [ATIP staff continually sensitizes and guides](#) third parties and requesters on the requirements of both pieces of legislation by means of continuous dialogue.

In addition to the management of Access and Privacy requests, ATIP staff provides advice and guidance to Agency employees and managers on compliance requirements with the legislation as well as information sessions on the processing of ATIP requests.

6. COMPLAINTS

6.1 Access to Information

The Agency's caseload under the *Access to Information Act* also included 15 complaints in 2004-2005, four of which were received during the fiscal year, while 11 were carried forward from the previous years. The reasons for the 15 complaints were as follows:

- Exemptions applied: 9
- Extensions taken: 2
- Refusal (Exclusions) 4

Five complaint files were closed during the reporting period. The two complaints related to extensions taken were resolved as not substantiated. Two of the complaints related to the exemptions applied were resolved as not substantiated, and one was determined to be well-founded. It should be noted that the decision to apply the exclusion clause to Agency records can only be taken following ratification of the Privy Council Office (PCO). The PCO is now required to substantiate its citation of Section 69 as a result of a recent federal court decision. As of March 31, 2005 there were 10 active complaints.

6.2 Privacy

There was one complaint made to the Privacy Commissioner on the Agency's response to one of the two requests treated in the reporting period. The investigation is ongoing.

7. PRIVACY IMPACT ASSESSMENT

The Privacy Impact Assessment (PIA) Policy came into effect on May 2, 2002. Its objective is to assure Canadians that privacy principles are being taken into account during the design, implementation and evolution of programs and services that involve personal information. The policy requires that programs and services with potential privacy risks undergo a PIA. Preliminary Privacy Impact Assessments ([PPIAs](#)) are conducted to determine whether there are privacy-related concerns warranting a full PIA.

During the 2004-2005 reporting period, the Agency completed PPIAs for the following initiatives:

7.1 On-line Grants and Contributions Program

This initiative relates to the provision of e-service by ACOA to its clients with the use of Secure Channel Technology, which provides a high level of security. This is part of the Agency's ongoing strategy to improve client satisfaction while responding to the Government of Canada's commitment to Government On-Line initiative. In light of the nature of its business, limited personal information is collected by the Agency. Clients using the service are, for the most part, businesses and associations. A copy of this PPIA was forwarded to the Office of the Privacy Commissioner. It was determined that the on-line service poses few serious security risks to Canadians and, therefore, did not require a full PIA.

7.2 Human Resources Information System

This new service relates to the processes used to submit and acquire specific HR information. It converts from a conventional service delivery mode to an electronic service delivery mode. A PPIA was completed for this system and a copy was forwarded to the Office of the Privacy Commissioner. It was determined that a complete PIA was required. The Agency expects that it will be completed in the 2005-2006 fiscal year.

INTERPRETATION OF THE REPORT ON THE *ACCESS TO INFORMATION ACT*

The following is provided to assist the reader in the interpretation of the information reported in Annex A.

I: REQUESTS PROCESSED

A total of 137 requests were processed by the Agency during 2004-2005. During this current reporting period, 114 new requests were received and 23 requests were carried forward from the previous reporting period. Responses to these requests involved the page-by-page review of approximately 25,000 pages of records.

Media were the predominant access client group of the Agency. During the reporting period, 77 (68%) of the requests were received from this group. The breakdown of requesters is as follow:

Media	77
Academic	0
Business *	6
Organization	23
Public	8

* This category includes known Information Brokers.

During 2004-2005, the Agency also responded to 46 consultations received from other federal institutions, while it initiated 185 mandatory consultations regarding the disclosure of information with third parties and other government institutions.

II: DISPOSITION OF REQUESTS COMPLETED

Of the 104 requests completed during 2004-2005, the Agency granted access, in whole or in part, to the records on 91 occasions. Of the remaining 13 requests:

- six could not be processed as no records were available;
- one was abandoned by the requester;
- one was transferred to an institution of a greater interest;
- three included of records that were exempted in their entirety; and
- two included of records that were excluded in their entirety.

III: EXEMPTIONS INVOKED AND EXCLUSIONS CITED

As was the case in previous years, the two major exemptions invoked were related to the mandatory provisions on Personal Information (section 19) and Third-Party Information (section 20). Refer to Annex C for statistics on the frequency of exemptions invoked and exclusions cited for the last three reporting periods.

V and VI: COMPLETION TIME AND EXTENSIONS

During 2004-2005, the 104 requests were completed in the following timeframes:

- 24 within 30 days or less (18%)
- 25 within 31 to 60 days (18%)
- 38 within 61 to 120 days (28%); and
- 17 within 121 days or more (12%).

Extensions beyond the prescribed time limit of 30 days were required in 79 cases to search through a large number of records, and/or to consult with other government institutions and third parties.

VII: TRANSLATIONS

Translation services were not required during this fiscal year.

VIII: METHOD OF ACCESS

In all cases where access was granted during the past three fiscal years, the Agency provided copies of records, in whole or in part, to the requester. The Agency responded to several requests via e-mail and provided responses in electronic format as requested.

IX: FEES

The *Access to Information Act* authorizes fees for certain activities related to the processing of formal requests under the Act. In addition to a \$5 application fee, search, preparation and reproduction charges may also apply. The current fee structure is specified in the Access to Information Regulations. No fees are imposed for reviewing records, overhead or shipping costs. Moreover, in accordance with Section 11 of the Act, no fees are charged for the first five hours required to search for [records or to prepare any part of these](#) for disclosure.

The *Access to Information Act* permits the waiving of fees when deemed to be in the public interest. In accordance with Treasury Board guidelines, the Agency has routinely waived fees under \$25. For fees over \$25, the Agency examines fee waiver requests on a case-by-case basis. In considering such requests, the Agency has taken into account costs in processing each access application and the degree of public benefit to be derived from the release of the accessible information.

Of the 114 requests received, the Agency returned the application fee of one abandoned request and waived the application fees for 58 requests. The amount of \$290 was collected in the reporting period for the application fees of 55 requests received during the fiscal year and three requests received during the previous year. ACOA waived a total of \$3,889.60 for other processing fees.

X: COSTS

In 2004-2005, the direct cost of administering the *Access to Information Act*, including information training sessions, totalled \$375,748. This consisted of \$356,653 in salary costs, representing six person-years, and \$19,095 in administration costs.

INTERPRETATION OF THE REPORT ON THE *PRIVACY ACT*

The following is provided to assist the reader in the interpretation of the information reported in Annex B.

Due to its legislative mandate, ACOA collects a limited amount of personal information. This accounts for the receipt of only two requests under the *Privacy Act* in 2004-2005. Both were completed during the reporting period.

The Agency granted access to all records in response to one of the request and refused access to personal information relating to another individual in accordance with Section 26 of the *Privacy Act*.

The cost of administering the *Privacy Act*, including training sessions, totalled \$19,776. This consisted of \$18,771 in salary costs, representing 0.32 person-years, and \$1,005 in administration costs.





Institution Atlantic Canada Opportunities Agency/Agence de promotion économique du Canada atlantique				Reporting period – Période visée par le rapport 04/01/04 – 03/31/05	
Source	Media - Média 77	Academia – Secteur universitaire 0	Business – Secteur commercial 6	Organization – Organisme 23	Public 8

I Requests under the Access to Information Act Demandes en vertu de la Loi sur l'accès à l'information		II Disposition of requests completed Disposition à l'égard des demandes traitées					
Received during reporting period Reçues pendant la période visée par le rapport	114	1	All disclosed Communication totale	9	6	Unable to process Traitement impossible	6
Outstanding from previous period En suspens depuis la période antérieure	23	2	Disclosed in part Communication partielle	82	7	Abandoned by applicant Abandon de la demande	1
TOTAL	137	3	Nothing disclosed (excluded) Aucune communication (exclusion)	2	8	Treated informally Traitement non officiel	0
Completed during reporting period Traitées pendant la période visée par le rapport	104	4	Nothing disclosed (exempt) Aucune communication (exemption)	3	TOTAL		104
Carried forward Reportées	33	5	Transferred Transmission	1			

III Exemptions invoked Exceptions invoquées							
S. Art. 13(1) (a)	0	S. Art. 16(1) (a)	5	S. Art. 18 (b)	1	S. Art. 21 (1) (a)	30
(b)	0	(b)	0	(c)	0	(b)	52
(c)	7	(c)	1	(d)	5	(c)	53
(d)	2	(d)	0	S. Art. 19(1)	59	(d)	12
S. Art. 14	19	S. Art. 16(2)	37	S. Art. 20(1) (a)	4	S. Art. 22	0
S. Art. 15 (1) International rel. Relations intern.	0	S. Art. 16(3)	0	(b)	62	S. Art. 23	7
Defence Défense	1	S. Art. 17	0	(c)	64	S. Art. 24	1
Subversive activities Activités subversives	0	S. Art. 18(a)	1	(d)	69	S. Art. 26	2

IV Exclusions cited Exclusions citées			
S. Art. 68 (a)	5	S. Art. 69(1) (c)	1
(b)	0	(d)	0
(c)	0	(e)	4
S. Art. 69 (1) (a)	0	(f)	0
(b)	0	(g)	7

V Completion time Délai de traitement	
30 days or under 30 jours ou moins	24
31 to 60 days De 31 à 60 jours	25
61 to 120 days De 61 à 120 jours	38
121 or over 121 jours ou plus	17

VI Extensions Prorogations des délais		
	30 days or under	31 days or over 31 jours ou plus
Searching Recherche	19	0
Consultation	12	2
Third Party Tiers	16	30
TOTAL	47	32

VII Translations Traductions		
Translations requested Traductions demandées		0
Translation prepared Traductions préparées	English to French De l'anglais au français	0
	French to English Du français à l'anglais	0

VIII Method of access Méthode de consultation	
Copies given Copies de l'original	91
Examination Examen de l'original	0
Copies and examination Copies et examen	0

IX Fees Frais			
Net fees collected Frais net perçus			
Application fees Frais de la demande	\$290.00	Preparation Préparation	0
Reproduction	0	Computer processing Traitement informatique	0
Searching Recherche	0	TOTAL	\$290.00
Fees waived Dispense de frais		No. of times Nombre de fois	\$
\$25.00 or under 25 \$ ou moins		109	\$1,017.10
Over \$25.00 De plus de 25 \$		29	\$2,957.50

X Costs Coûts	
Financial (all reasons) Financiers (raisons)	
Salary Traitement	\$356,653.70
Administration (O and M) Administration (fonctionnement et maintien)	\$19,095.00
TOTAL	\$375,748.70
Person year utilization (all reasons) Années-personnes utilisées (raisons)	
Person year (decimal format) Années-personnes (nombre décimal)	6.02

Institution Atlantic Canada Opportunities Agency / Agence de promotion économique du Canada atlantique	Reporting period / Période visée par le rapport 04/01/04 – 03/31/05
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I Requests under the Privacy Act / Demandes en vertu de la Loi sur la protection des renseignements personnels	
Received during reporting period / Reçues pendant la période visée par le rapport	2
Outstanding from previous period / En suspens depuis la période antérieure	0
TOTAL	2
Completed during reporting period / Traitées pendant la période visée par le rapport	2
Carried forward / Reportées	0

II Disposition of requests completed / Disposition à l'égard des demandes traitées	
1 All disclosed / Communication totale	1
2 Disclosed in part / Communication partielle	1
3 Nothing disclosed (exemption) / Aucune communication (exemption)	0
4 Nothing disclosed (exempt) / Aucune communication (exemption)	0
5 Unable to process / Traitement impossible	0
6 Abandoned by applicant / Abandon de la demande	0
7 Transferred / Transmission	0
TOTAL	2

III Exemptions invoked / Exceptions invoquées	
S. Art. 18 (2)	0
S. Art. 19(1) (a)	0
(b)	0
(c)	0
(d)	0
S. Art. 20	0
S. Art. 21	0
S. Art. 22(1) (a)	0
(b)	0
(c)	0
S. Art. 22 (2)	0
S. Art. 23 (a)	0
(b)	0
S. Art. 24	0
S. Art. 25	0
S. Art. 26	1
S. Art. 27	0
S. Art. 28	0

IV Exclusions cited / Exclusions citées	
S. Art. 69 (1) (a)	0
(b)	0
S. Art. 70(1) (a)	0
(b)	0
(c)	0
(d)	0
(e)	0
(f)	0

V Completion time / Délai de traitement	
30 days or under / 30 jours ou moins	0
31 to 60 days / De 31 à 60 jours	2
61 to 120 days / De 61 à 120 jours	0
121 days or over / 121 jours ou plus	0

VI Extensions / Prorogations des délais		
	30 days or under / 30 jours ou moins	31 days or over / 31 jours ou plus
Interference with operations / Interruptions des opérations	0	0
Consultation	1	0
Translation / Traduction	0	0
TOTAL	1	0

VII Translations / Traductions		
Translations required / Traductions demandées		0
Translation prepared / Traductions préparées	English to French / De l'anglais au français	0
	French to English / Du français à l'anglais	0

VIII Method of access / Méthode de consultation	
Copies given / Copies de l'original	2
Examination / Examen de l'original	0
Copies and examination / Copies et examen	0

IX Corrections and notations / Corrections et mentions	
Corrections requested / Corrections demandées	0
Corrections made / Corrections effectuées	0
Notation attached / Mention annexée	0

X Costs / Coûts	
Financial (all reasons) / Financiers (raisons)	
Salary / Traitement	\$18,771.25
Administration (O and M) / Administration (fonctionnement et maintien)	\$1,005.00
TOTAL	\$19,776.25
Person year utilization (all reasons) / Années-personnes utilisées (raisons)	
Person year (decimal format) / Années-personnes (nombre décimal)	0.32

Annex C

Frequency of exemptions invoked and exclusions cited, by sections of the *Access to Information Act*

(Please note that the section is only reported once for each request)

Section	Description of the Section	Frequency		
		2004-2005	2003-2004	2002-2003
13(1)(a)	Information obtained in confidence from a foreign state government	0	1	0
13(1)(c)	Information obtained in confidence from a provincial government	7	2	0
13(1)(d)	Information obtained in confidence from a municipal or regional government	2	5	1
14	Federal-provincial affairs	19	18	25
15(1)	International affairs and defence	1	1	3
16(1)(a)	Law Enforcement and Investigations - Information prepared or obtained from an investigating body re law enforcement and investigation	5	7	4
16(1)(c)	Law enforcement and Investigations - Information that could be injurious to the enforcement of any law of Canada or a province or the conduct of lawful investigations	1	6	1
16(2)	Law enforcement and investigations - Security	37	2	4
16(3)	Law enforcement and investigations - Policing services for provinces on municipalities	0	1	0
18(a)	Economic interests of Canada - Trade secrets or financial	1	5	0
18(b)	Economic interests of Canada - Prejudice the competitive position of a government institution	1	2	0
18(d)	Economic interests of Canada - Material injurious to the financial interests	5	0	2
19(1)	Personal information as defined in the <i>Privacy Act</i>	59	40	40
20(1)(a)	Third-party information - Trade secrets of a third party	4	2	7
20(1)(b)	Third-party information - Financial, commercial, scientific or technical confidential information	62	42	39
20(1)(c)	Third-party information - Financial loss or gain, or could prejudice the competitive position of a third party	64	37	37
20(1)(d)	Third-party information - Interference with negotiations of a third party	69	44	27
21(1)(a)	Advice or recommendations by or for the government or Minister of the Crown	30	29	22
21(1)(b)	Account of consultations or deliberations of government or Minister of the Crown	52	38	28
21(1)(c)	Positions or plans for negotiations carried by or on behalf of the Government of Canada	53	30	13
21(1)(d)	Plans relating to the management of personnel or administration of a government institution not yet put into operation	12	19	9
22	Testing procedures, tests and audits	0	1	0
23	Solicitor-client privilege	7	4	6
24	Statutory prohibitions against disclosure	1	1	3
26	Refusal of access where information to be published	2	2	0
68(a)	Act does not apply to certain materials - Materials published or available for purchase by the public	5	8	8
69(1)(a)	Confidences of the Queen's Privy Council for Canada - Memoranda	0	0	1
69(1)(c)	Confidences of the Queen's Privy Council for Canada - Agenda and Records of Cabinet Deliberations	1	0	0
69(1)(d)	Confidences of the Queen's Privy Council for Canada - Discussions between ministers	0	1	0
69(1)(e)	Confidences of the Queen's Privy Council for Canada - Records to brief ministers	4	5	0
69(1)(g)	Confidences of the Queen's Privy Council for Canada - Records containing information re (a) to (f)	7	11	6