

Department of National Defence

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 Department of National Defence's (ND) progress in attaining 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 January 1999, the Office of the Information Commissioner (OIC) issued the first Report Card on ND's compliance with the statutory time requirements of the *Access to Information Act*. In that report, ND received a red alert grade of "F" with a 69.6% request to deemed-refusal ratio for access requests received from April 1 to November 30, 1998. The report included a number of recommendations on measures that could be taken to reduce the number of requests in a deemed-refusal situation.

From April 1 to November 30, 1999, the deemed-refusal ratio for access requests improved to 38.9%, although still a grade of "F".

In January 2001, ND received a grade of "D" with a new request to deemed-refusal ratio of 17% for the period April 1 to November 30, 2000. This report noted that the trend lines for reducing the number of access requests in a deemed-refusal situation were steadily improving.

ND continued to improve its performance in meeting the time requirements of the *Access to Information Act*, achieving a grade of "C" with a new request to deemed-refusal ratio of 11.8% for the period from April 1 to November 30, 2001. However, that improvement was not maintained for the full fiscal year; while the grade remained the same at a "C", the ratio declined slightly to 12.7%.

For the 2002-2003 reporting period, the department attained a new request to deemed-refusal ratio of 9.1% for a grade of "B", with this ratio slipping to a 12.7% ratio and a grade of "C" for the full fiscal year.

In the Status Report of 2004, it was reported that the department continued to strive to attain ideal compliance.

In the 2005 Report Card, the department received a substantial compliance grade of “B” with a 9.5% new 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, ND received a grade of “C”, with a 13.4% request to deemed-refusal ratio.

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, the department’s request to deemed-refusal ratio was 14.8%, a grade of “C”.

During the reporting period, ND received 734 requests. This is 48 less than the previous year. However, complexity and sensitivity of the requests were also factors in the time taken to process requests.

During the reporting period, ND moved its ATIP Office. As such, it was necessary to re-install all of the communication lines, hardware and software related to *ATIPimage*, which included a special customized installation due to security requirements. This major undertaking caused some serious problems with the *ATIPimage* system. The result was that the speed at which the *ATIPimage* scanners could scan records into the main database was drastically affected. Basically, it took a scanner an average of two minutes to scan and upload a one-page record into the main file. This seriously impacted the Directorate’s ability to review records in a timely manner and was not sorted out, until June 2005.

To add to the workload, records indicate that significant numbers of requests were received related to the Herbicide Spraying (Agent Orange) and HMCS CHICOUTIMI. With respect to the HMCS CHICOUTIMI, 22 access requests were made, in which 15,720 pages were reviewed during the reporting period. 65 requests sought records relating to Herbicide Spraying (Agent Orange), from which 17,340 pages were reviewed during the reporting period.

ND received many requests for consultations from other departments. In total, these consultations represent, by themselves, 20,000 pages of documents.

With regards to staff resources, DAIP has continued to suffer from significant staff turnover. The constant stream of new employees, with associated security issues, and the need to train them has continued to impact negatively on the Directorate’s already limited

processing resources. Further, attempts to establish a contract for consulting services to try and alleviate the situation took at least one year, due to problems encountered with the ND's contracting system.

4. RECOMMENDATIONS

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

Recommendation #1

That ND attain ideal compliance and a grade of "A" by March 31, 2007.

Recommendation #2

The department address the staffing shortfall of the ATIP Directorate with a view to increasing resources as required.

5. STATUS OF 2005 RECOMMENDATIONS

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

Previous Recommendation #1

ND attain ideal compliance or at least maintain substantial compliance with the time requirements of the *Access to Information Act* for 2005-2006.

Action Taken: ND did not attain ideal compliance simply because of contractual restrictions. The number of staff turnovers would ideally require ND to contract for consulting services. However, constraints imposed by ND's Legal Services prohibited the ATIP Office to proceed in a diligent manner.

Previous Recommendation #2

That DAIP continue to expand public access to records informally and that a plan be completed in 2005-2006 to begin placing disclosed records under ATI on its website within the next two years.

Action Taken: ND did continue to explore ways to provide informal access to information. Travel and Hospitality and contracts over \$10K are placed on the DAIP website. Boards of Inquiry documentation is reviewed, severed, and made available on the ND website. Lists of passengers on Challenger jets are provided informally upon request. It is DAIP's plan to place all disclosed records under ATI on its website within a short period.

Previous Recommendation #3

That DAIP take a proactive role in assuring that management of records at the department improve in order that more accurate searches for records and fee assessments are made.

Action Taken: The DAIP offers continual support to OPIs. The provision of practical tips and advice to OPIs has permitted to produce more accurate fee estimates.

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. 1/04 to Mar. 31/05	Apr. 1/05 to Nov. 30/05
1.	Number of requests carried over:	303	331
2.	Requests carried over from the prior fiscal — in a deemed refusal situation on the first day of the new fiscal:	56	84
New Requests — 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:	1284	734
4.A	How many were processed within the 30-day statutory time limit?	588	326
4.B	How many were processed beyond the 30-day statutory time limit where no extension was claimed?	19	18
4.C	How long after the statutory time limit did it take to respond where no extension was claimed?		
	1-30 days:	13	11
	31-60 days:	4	5
	61-90 days:	2	1
	Over 91 days:	0	1
5.	How many were extended pursuant to section 9?	617	313
6.A	How many were processed within the extended time limit?	314	145
6.B	How many exceeded the extended time limit?	54	17
6.C	How long after the expiry of the extended deadline did it take to respond?		
	1-30 days:	20	7
	31-60 days:	20	8
	61-90 days:	7	1
	Over 91 days:	7	1
7.	As of November 30, 2005, how many requests are in a deemed-refusal situation?	39	