MEASURING UP

Improvements and ongoing
concerns in access to information,
2008–2009 to 2010–2011

A Special Report to Parliament by

Suzanne Legault
Information Commissioner of Canada
May 2012

May 2012

The Honourable Noel A. Kinsella, Senator
The Speaker
Senate
Ottawa ON K1A 0A6

Dear Mr. Kinsella:

Pursuant to section 39 of the *Access to Information Act,* I have the honour to submit to Parliament a special report entitled *Measuring up: Improvements and ongoing concerns in access to information, 2008–2009 to 2010–2011*.

This is the third of three special reports focusing on delays in responding to access to information requests. It is part of my office's ongoing work to provide a diagnostic of delay in the federal access to information system and help build a path to improvement.

The first report, *Out of Time*, looked at a large sample of institutions, representing 88 percent of all the requests the federal government received in 2008–2009. The second report, *Open Outlook, Open Access*, centred on a cohort of five Crown corporations and three Agents of Parliament that had become subject to the access law in 2007 as a result of the *Federal Accountability Act*. In each of these reports, I made recommendations to all institutions on areas for improvement. I also issued recommendations in the first report to the Treasury Board Secretariat on issues affecting the access to information system as a whole. I subsequently followed these organizations' progress in implementing these recommendations.

This final report revisits the 18 at-risk and below-average performers from the 2008–2009 report and finds that, in most cases, they have improved their performance by making concerted efforts to respond to our recommendations. Consequently, Canadians are, in many instances, receiving more timely access to records held by these institutions.

Nonetheless, I remain concerned about the fragile health of the access to information system, particularly in light of the budget cuts affecting institutions across government. The report card process and our investigations also uncovered practices of concern, which we will be monitoring over the coming years.

Sincerely,

Suzanne Legault
Information Commissioner of Canada

Information Commissioner of Canada

Commissaire à l'information du Canada

May 2012

The Honourable Andrew Scheer, M.P.
The Speaker
House of Commons
Ottawa ON K1A 0A6

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Suzanne Legault
Information Commissioner of Canada

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Message from the Commissioner

There has long been an expression in the access to information world—paraphrased from our legal colleagues: access delayed is access denied.

As significant delays continued to plague the federal access to information system in recent years, I decided it was time to determine what were the root causes of those delays and offer, in a series of reports, recommendations for improvement to reduce Canadians' wait times for responses to their requests.

Over three years, we looked in detail at the performance of more than 30 institutions in terms of the timeliness of their responses to access to information requests. This report, the last of three, contains the results of a re-assessment for 2010–2011 of 18 institutions that performed below average or worse in 2008–2009.

Overall, there are signs of improvement: 13 institutions improved their performance, while two remained at the same level and three fell to a lower grade. Using various indicators, we found that institutions are providing more timely responses to requesters. Our recommendation to 12 institutions to eliminate their backlog of long-standing requests has meant that many requesters have finally received a response after waiting for some time. Institutional leaders are providing resources for the access function and working to establish a climate of compliance.

Clearly, a number of institutions have made real efforts to enhance their service. Yet the system is still fragile. Recently announced budget cuts could have a detrimental impact on the fledgling improvements we have seen. There is also evidence of practices institutions are following that do not follow the letter or the spirit of the *Access to Information Act*.

With these concerns in mind, we have recommended to each of the 18 institutions that they report on their progress implementing our latest recommendations in their annual report to Parliament on access to information operations. Parliament can play a crucial oversight role for the access to information system, particularly as the government considers new ways to share information with the public.

My office will also monitor those reports, as well as the expanded access statistics the Treasury Board Secretariat began collecting this year. We will use this information, as well as our own complaints data, to conduct any necessary systemic investigations and determine which institutions will be the subject of future report cards. However, we are otherwise suspending the report card process until at least 2014 and instead dedicating all our investigative resources to pursuing individual complaints, in order to maximize disclosure of information.

Nearly 30 years ago, the *Access to Information Act*—the original open government instrument—was enshrined into law. As Canada enters into its fourth decade under its aegis, it is time to recommit to it.

Executive summary

This report is the third in a series by the Office of the Information Commissioner looking into delays in responding to access to information requests by federal institutions and assessing their overall compliance with the *Access to Information Act*.

To assess the subject institutions, we developed in 2008–2009 three indicators of delay and then collected statistical and contextual information to form a complete picture of institutions' operations. The 2010–2011 sample comprised the 18 at-risk and below-average performers from the 2008–2009 report card process. Out of these, 13 improved their performance, two received the same grade and three performed worse in 2010–2011.

We also developed detailed indicators to assess institutions' timeliness in responding to requests, and found signs of improvement. This progress, in combination with effective oversight, ongoing and adequate resources for the access function, and leadership by ministers and senior officials, bodes well for more timely responses to access requests and greater compliance with the Act.

We were encouraged that seven institutions had deemed refusal rates (requests completed late as a proportion of overall caseload) of less than 10 percent in 2010–2011, compared to just one among this same group of institutions in 2008–2009. In addition, 10 institutions significantly reduced their backlog of long-standing requests, and a number completed requests received in 2010–2011 in times approaching 30 days or fewer. Finally, while institutions were still closing only half of overdue requests in the first 30 days after the due date in 2010–2011, there were nearly one quarter fewer late requests than in 2008–2009.

During the 2008–2009 report card exercise, we identified six systemic issues (leadership, delegation orders, time extensions, consultations, resources and information/records management) as sources of chronic delay. Many of our recommendations at that time focused on these themes. Generally speaking, the institutions that significantly improved their rating for 2010–2011 were those that implemented most of those recommendations.

The overall improvement in institutions' performance against the measures of timeliness that we have been tracking over the past three years suggests that institutions are providing more timely service to requesters and that the report cards and the follow-up by the House of Commons Standing Committee on Access to Information, Privacy and Ethics have had a positive effect.

Nonetheless, we are concerned about the fragile health of the access system, particularly in light of recent budget cuts. Those reductions could jeopardize the gains institutions have made, especially if the number of requests continues to climb, as it has since 2004–2005.

Given the improved performance, however, we will suspend our report card exercise until at least 2014. We will dedicate all of our investigative resources to pursuing individual complaints, in order to maximize disclosure of information. In the meantime, we have recommended that institutions report to Parliament in their annual report on access to information operations on their progress implementing our recommendations, so federal institutions can be held to account for their access to information operations.

Introduction: Focusing on delay

This report is the third in a series by the Office of the Information Commissioner looking into delays in responding to access to information requests by federal institutions and assessing their overall compliance with the *Access to Information Act*. (See the Three-Year Plan for Report Cards and Systemic Investigations for background on this project: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_3_yrs_plan.aspx.)

Our goal when we launched this three-year project was to identify the sources of the delay and to increase the compliance of institutions, in particular with the duty to assist, which was codified in the 2006 *Federal Accountability Act*. One of the key elements of the duty to assist is that institutions must make every effort to respond to requests for information in a timely and complete manner.

In 2008–2009, institutions responded to fewer than 60 percent of requests within the 30-day time frame envisioned by the drafters of the *Access to Information Act*. Our complaints investigations made it clear that some requesters were waiting much longer than that for a response.

But to offer solutions to improve the situation we needed to know more about the circumstances—both in particular institutions and across the system—that were leading to delays. In our view, effective oversight requires detailed analysis of quantitative and qualitative data, and evidence-based recommendations.

To that end, we developed a number of indicators of delay and then collected from a sample of institutions statistical and contextual information to form a complete picture of their operations, including workload, procedures, resources and other factors that influence how quickly they respond to requesters. We then assessed the institutions' performance and issued recommendations based on what we had learned from our information gathering, the results of our investigations and our knowledge of what makes a successful access to information operation.

Our 2008–2009 cohort comprised 24 institutions that accounted for 88 percent of all access requests across the federal government that year. We chose to focus on these institutions because we had received at least five delay-related complaints about them in 2008–2009. The group included some of the major players in the access system, including Citizenship and Immigration Canada (responsible for 41 percent of all access requests that year) (http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2008-2009.aspx). This level of representation made for a solid baseline of data about the timeliness of responses.
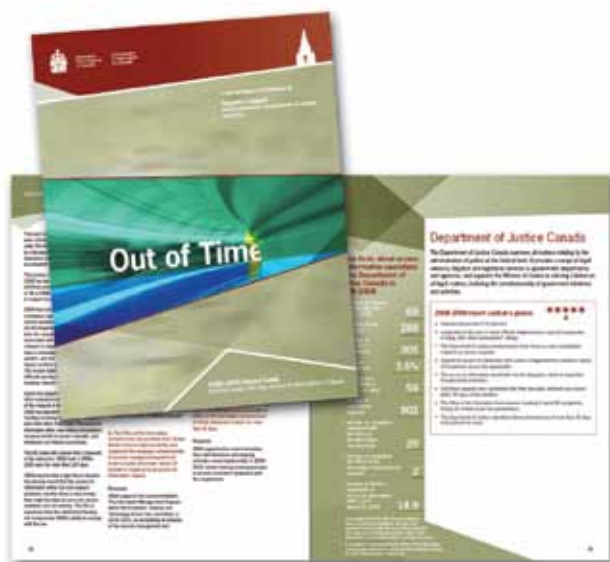
For 2009–2010, we targeted eight organizations that had been brought under the access legislation in 2007 by the *Federal Accountability Act*, to assess the experience of institutions newly subject to the law (http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010.aspx). We chose the five Crown corporations and three Agents of Parliament based on the number of complaints we had received about them since they had become subject to the Act in 2007.

In October 2010, we solicited a progress report from the 12 institutions that received the lowest grades in the 2008–2009 report cards on their work to implement our recommendations (http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009.aspx).

The 2010–2011 sample is made up of the 18 at-risk and below-average performers from 2008–2009. While this group accounted for only 34 percent of the requests received in 2010–2011, six of the top 10 request recipients are represented. In particular, key institutions, such as Foreign Affairs and International Trade Canada (DFAIT), the Privy Council Office (PCO) and the Canada Revenue Agency (CRA), are present. It was particularly important for us to re-visit these institutions, not only because of their poor performance in 2008–2009 but also because consultations with DFAIT and PCO are in many instances mandatory for other institutions. CRA, for its part, is the subject of by far the most complaints to us each year.

In this report, we re-visit these institutions to measure the progress they made implementing our recommendations, responding to access requests more quickly and generally improving their compliance with the Act. Individual report cards on these institutions begin on page 19.

We also take the opportunity to review the results of our three-year plan, which we will be completing this year with a follow-up assessment of two institutions from our 2009–2010 cohort, the Canadian Broadcasting Corporation and Canada Post Corporation (http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010.aspx). **Chapter 1** details what we found out, in terms of statistical evidence of delay, larger, system-wide issues that contribute to delay, and institutional compliance. **Chapter 2** looks ahead to how we and other players can and should continue the oversight this project has shown to be so crucial, in particular to address concerns we have identified and monitor the fragile health of the access to information system.

1. Measuring up: Finding signs of improvement

The proportion of access to information requests that all institutions across the federal government closed within 30 days in 2010–2011 remained at 57 percent, the same level as in 2008–2009, according to statistics from the Treasury Board Secretariat (http://www.infosource.gc.ca/bulletin/2009/b/bulletin32b/bulletin32b02-eng.asp and http://www.infosource.gc.ca/bulletin/2011/b/bulletin34b/bulletin34b00-eng.asp). Over the same period, however, institutions received and closed 22 percent more requests, as well as 22 percent (4,116) more requests in fewer than 30 days. This means that institutions provided a response to nearly one quarter more requesters within the 30-day time frame set out in the *Access to Information Act*. They did this in the face of an increasing workload, including a growing volume of pages of records to review.

Using, along with our complaints data, the detailed indicators we developed to assess the timeliness of the responses given by institutions that were part of the report card process in 2008–2009 and 2010–2011, we found signs of improvement. This progress, in combination with effective oversight, ongoing and adequate resources for the access function, and leadership by ministers and senior officials, bodes well for more timely responses to access requests and greater compliance with the Act.

Evidence of delay

The statistical evidence about delay we gathered focused on three primary indicators:

- deemed refusal rate
- average time to complete all requests
- how long it took to complete a request once it was late.

What we learned

Deemed refusal rate
With four exceptions, institutions' deemed refusal rates decreased, sometimes significantly. Seven institutions had rates of lower than 10 percent in 2010–2011, compared to just one among the same group of institutions in 2008–2009.

Average completion time
Eight institutions took longer, on average, to complete a request in 2010–2011 than they did in 2008–2009. However, 12 institutions also significantly reduced their backlog, which inflated their average completion time. When considering only requests received and completed in 2010–2011, these institutions significantly reduced their average completion time, with two succeeding in lowering it below the 30 days set out in the law.

How long it took to complete overdue requests
While institutions were still closing only half of overdue requests in the first 30 days after the due date in 2010–2011, there were nearly 25 percent fewer late requests than in 2008–2009. This is noteworthy, since the overall pool of requests these institutions received increased by 7 percent from 2008–2009.

Deemed refusal rate

A response to a request provided after its legislated due date—either the 30 days set out in the *Access to Information Act* or at the end of a valid time extension—is considered to be a "deemed refusal." To determine the deemed refusal rate, we calculated the number of requests an institution completed late in the subject year as a proportion of its overall caseload that year. (See Appendix B for the exact formula.)

Figure 1: Deemed refusal rates, 18 institutions, 2008–2009 and 2010–2011
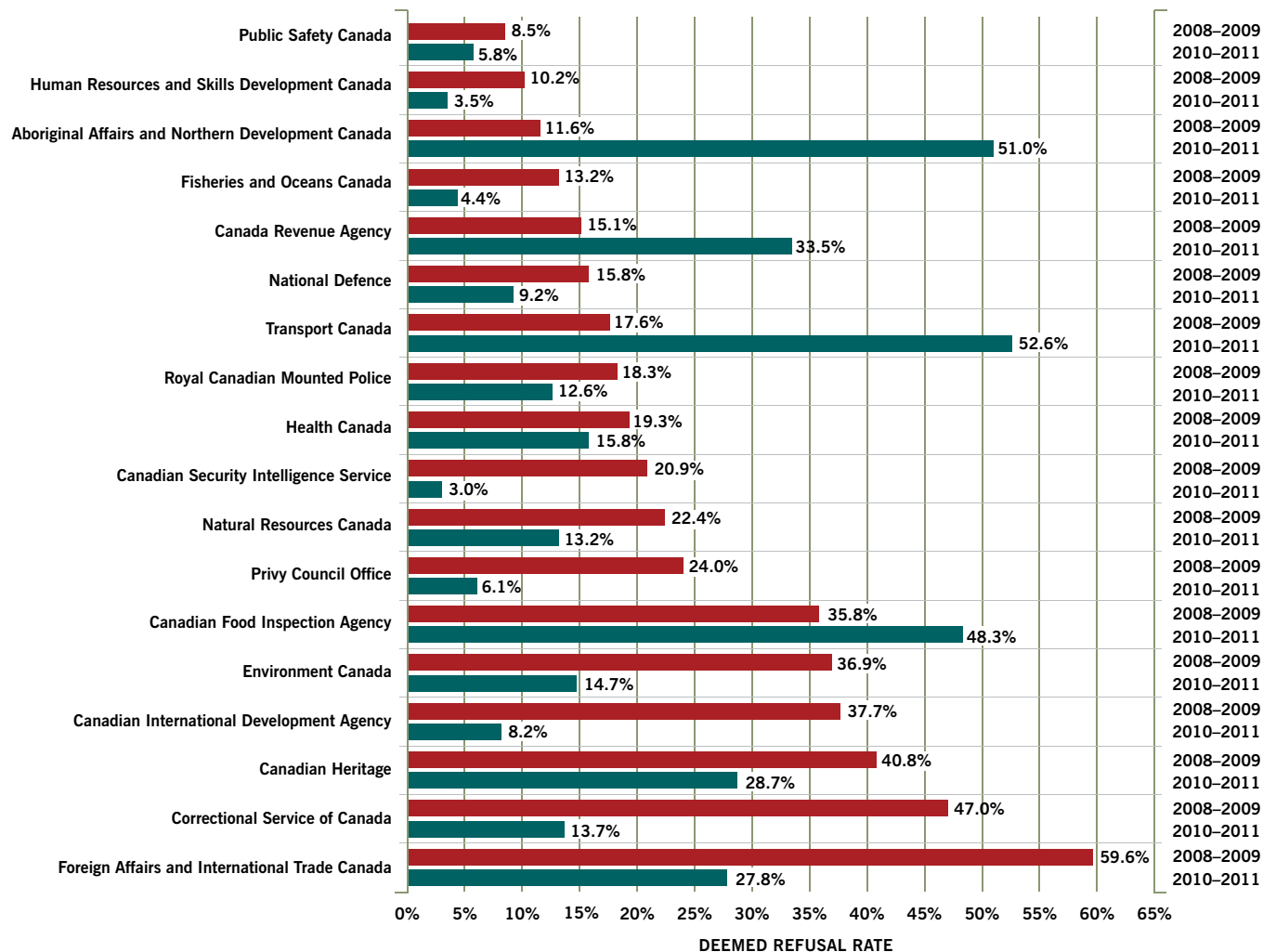
Figure 1 compares the deemed refusal rate for each of the 18 institutions we studied in 2010–2011 with the corresponding figure for 2008–2009. With four exceptions, institutions reduced their rate, some quite significantly. The rate for Foreign Affairs and International Trade Canada (DFAIT), for example, dropped from 59.6 percent in 2008–2009 to 27.8 percent in 2010–2011. As an example of the benefit to requesters of that decrease, DFAIT responded late to 46 requests it received and completed in 2010–2011 compared to 163 requests it received and completed in 2008–2009.

In addition to a general drop in deemed refusal rate (the median was 13.45 percent among the 18 institutions in 2010–2011 compared to 20.1 percent in 2008–2009),

seven of the 18 institutions achieved rates of less than 10 percent in 2010–2011, compared to just one among this same group of institutions in 2008–2009.

Average time to complete a request

While the deemed refusal rate shows that requests are delayed because they are completed late, it does not give any indication of the number of days the delay might involve. Measuring the average time to complete a request sheds light on this.

Figure 2 shows the average time each of the 18 institutions took to complete a request, relative to the 30-day ideal set out in the *Access to Information Act*. Ten institutions improved their performance in this area. Human Resources

Figure 2: Average time to complete a request, 18 institutions, 2008–2009 and 2010–2011

Institution	2008–2009	2010–2011
Royal Canadian Mounted Police	38	64
Canadian Food Inspection Agency	50	188
Transport Canada	60	177
Natural Resources Canada	65	59
Canada Revenue Agency	73	146
Public Safety Canada	75	70
Human Resources and Skills Development Canada	80	45
Canadian Security Intelligence Service	86	49
Fisheries and Ocean Canada	86	74
Environment Canada	97	72
Aboriginal Affairs and Northern Development Canada	102	128
Canadian Heritage	107	185
Correctional Service of Canada	110	46
National Defence	125	95
Health Canada	132	144
Canadian International Development Agency	157	113
Privy Council Office	157	132
Foreign Affairs and International Trade Canada	163	242

30 days

NUMBER OF DAYS

and Skills Development Canada, for example, reduced its average completion time from 80 days in 2008–2009 to 45 in 2010–2011. The other eight institutions performed worse, and none achieved an average completion time of less than 30 days.

The increases in average completion time are likely due to our recommendation in the 2008–2009 report cards that 12 of the 18 institutions reduce their backlog of long-standing requests. Due to the age of many of these files, institutions' average completion time increased dramatically as they subsequently completed large numbers of files carried over from previous years. **Figure 3** shows much improved average completion times when these backlogged requests are not

taken into account. Canadian Heritage's average completion time, as an example, dropped from 185 days overall to 36 days for requests received and completed in 2010–2011.

The Canadian International Development Agency (CIDA), Environment Canada, Fisheries and Oceans Canada (DFO), National Defence and Privy Council Office (PCO) each brought down their average completion times, even when the backlogged files they completed are considered. For example, National Defence's overall average completion time dropped from 125 days in 2008–2009 to 95 days in 2010–2011, and further decreased to 49 days when the older files are not counted.

Figure 3: Average time to complete a request, 12 institutions, 2010–2011, with backlogged requests removed

Institution	2010–2011 (days)	Received and completed in 2010–2011 (days)
Royal Canadian Mounted Police	64	20
Environment Canada	72	26
Fisheries and Oceans Canada	74	39
National Defence	95	49
Canadian International Development Agency	113	49
Privy Council Office	132	38
Health Canada	144	60
Canada Revenue Agency	146	56
Transport Canada	177	43
Canadian Heritage	185	36
Canadian Food Inspection Agency	188	84
Foreign Affairs and International Trade Canada	242	94

30 days

NUMBER OF DAYS

Complaints

The delay-related complaints that we receive—those about deemed refusals and time extensions—offer another useful perspective on the timeliness of institutions' responses to requests.

By most measures, the complaints picture is positive. Overall and for our 18 institutions, we received 10 percent fewer complaints in 2010–2011 than we did in 2008–2009. Over the same period, the number of administrative complaints we registered fell by 11 percent system-wide and 16 percent for the 18 subject institutions. In addition, the number of time extension complaints decreased by 58 percent overall and 77 percent for the report card cohort. One requester who made frequent complaints about time extensions against a variety of institutions in 2008–2009, but was no longer doing so in 2010–2011, accounts for this large decrease.

In contrast, the number of deemed refusal complaints grew: by 82 percent across government and 94 percent among our 18 institutions. However, this increase can largely be attributed to a spike in deemed refusal complaints received from one requester in July 2010 against the Canada Revenue Agency (CRA). With these figures removed from the calculations, the number of deemed refusal complaints decreased by 21 percent. (The corresponding system-wide drop is 47 percent.) Of the deemed refusal complaints we had closed as of mid-November 2011, 60 percent were resolved (meaning that they had merit and were resolved to the Commissioner's satisfaction). Again, however, not considering CRA changes the picture: without those figures, the number of resolved deemed refusal complaints among our 18 institutions decreased by 10 percent.

Figure 4: Number of requests completed late and how long it took to complete them, 18 institutions, 2008–2009 and 2010–2011

2008–2009

2010–2011

NUMBER OF REQUESTS
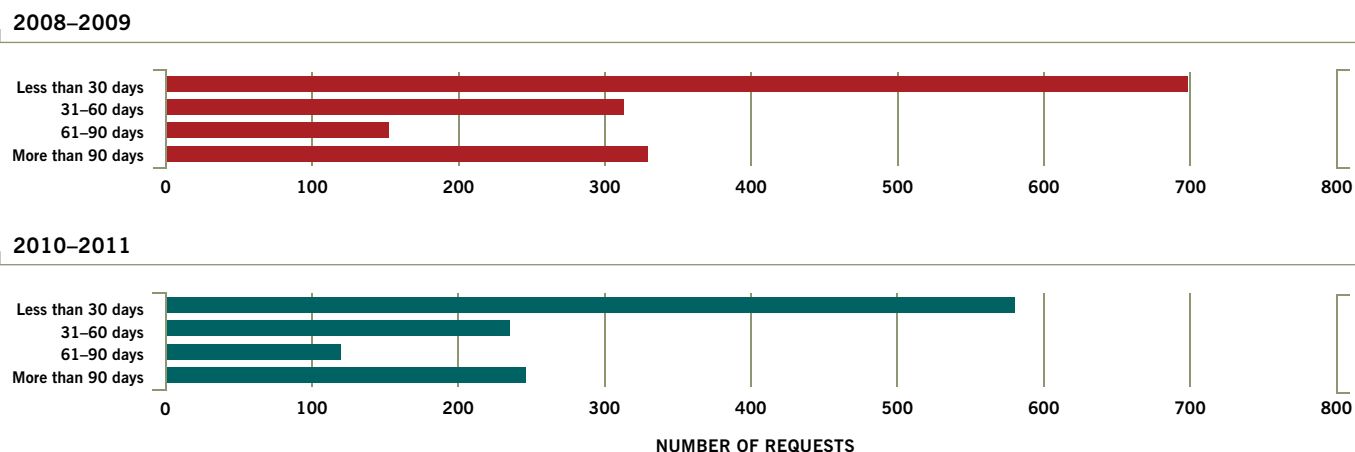
In addition, two institutions achieved average completion times of less than the 30 days set out in the Act when only considering requests received and completed in 2010–2011: Royal Canadian Mounted Police (RCMP; 20 days) and Environment Canada (26 days). Canadian Heritage (36 days), PCO (38 days) and DFO (39 days) each came close to the 30-day threshold.

By these measures, requesters are receiving faster service from many institutions. In some cases, requesters can even expect to get the information they are seeking in a time, on average, approaching 30 days or less.

How long it took to complete a request once it was late

This indicator provides information about delay that the other two cannot. As noted, the deemed refusal rate measures the proportion of requests that are late, but does not speak to the number of days requests are overdue. The average completion time, in contrast, measures the number of days it takes to complete a request, but does not distinguish between those that are on time and late ones. By calculating how long it takes institutions to complete requests after the due date has passed, we can learn whether institutions let these requests languish.

Overall, only half of the requests that were overdue in both 2008–2009 and 2010–2011 were completed within the 30 days following the original deadline. Twenty percent of

requesters waited between 31 to 60 days for a response, 10 percent for 61 to 90 days and a substantial 20 percent for more than 90 days.

However, as the lower 2010–2011 deemed refusal rates would suggest, the number of overdue requests received and completed in the same fiscal year by the 18 institutions that were part of the 2010–2011 report card exercise dropped. The decrease was 24 percent, from 1,549 requests in 2008–2009 to 1,181 in 2010–2011. This is particularly noteworthy, since the number of new requests these institutions received in 2010–2011 increased 7 percent from 2008–2009.

In addition, as **Figure 4** shows, there was a decrease in the number of overdue requests closed in every time period: fewer than 30 days after the due date, 18 percent; 31–60 days, 27 percent; 60–90 days, 22 percent; and more than 90 days, 26 percent.

In overall terms and according to our three indicators of delay, then, institutions have improved the timeliness of their response to access to information requests since 2008–2009. In addition, the 18 institutions we assessed both for that reporting period and 2010–2011 completed more requests within 30 days: 6,950 (50 percent) in 2010–2011 compared to 6,272 (47 percent) in 2008–2009. We also have a more complete statistical picture of the timeliness and, as the next section explains, of other issues that affect institutions' ability to respond to requests in a timely manner.

Systemic issues

During the 2008–2009 report card exercise, we identified six systemic issues (leadership, delegation orders, time extensions, consultations, resources and information/records management) as sources of chronic delay in the access to information system. We primarily focused on these topics in our recommendations that year, although we issued other recommendations to address specific circumstances at some institutions to further reduce delays and encourage compliance with the Act. Generally speaking, the institutions that significantly improved their rating in 2010–2011, compared to 2008–2009 (see page 16), were those that implemented most of our recommendations.

Leadership

In 2008–2009, we singled out strong leadership as the most important factor for the successful operation of an access to information office and made recommendations to six institutions to improve in this area. We challenged ministers and deputy ministers, through our recommendations and in subsequent meetings, to work to establish a culture of compliance, wherein access to information—and responding to requests in a timely manner—is an institutional priority, not an afterthought.

These six institutions responded in a variety of ways, including providing the recommended financial resources and personnel, as well as putting access to information on the executive-level agenda. Most of the institutions subsequently improved their results. DFO, for example, highlighted, in training and awareness sessions, the importance the minister and deputy minister attach to meeting access to information obligations. DFAIT senior management provided $2.7 million in new funding for the access function in the wake of the institution's catastrophic grade on the 2008–2009 report card, while the access office at the Correctional Service of Canada (CSC) received $1.7 million. Health Canada has added meeting access to information commitments to the performance management agreements of senior executives.

Transport Canada and Aboriginal Affairs and Northern Development Canada (AANDC) did not fully meet our expectations with regard to leadership and their performance was poor in 2010–2011, including high deemed refusal rates and long average completion times. In new recommendations, we have called on the leadership in those institutions and others whose performance was average or below to recommit to meeting their obligations under the *Access to Information Act* and fostering a culture of compliance across the institution.

What we learned

Leadership continues to be a key element of a healthy and smooth-running access to information operation. Leadership efforts included providing resources, along with emphasizing the importance of responding to requests in a timely manner, to create a culture of compliance across the institution.

Streamlining the **delegation order** had positive effects on timeliness in a number of instances, although institutions did achieve improved performance despite disagreeing with us about the form delegation orders should take.

We have concerns that some of the 18 institutions took more **time extensions** in 2010–2011 than in 2008–2009. Most institutions, however, seem to have moderated their use of extensions.

Institutions reported that they generally did not have problems with **consultations** in 2010–2011, except for mandatory ones with DFAIT and PCO. They reported these as continuing sources of delay.

Additional **resources** have made a positive difference at most institutions; however, some access officials told us that they are concerned that budget cuts would undermine the gains they have made.

From the information we received from institutions, **records/ information management** seems to be receding as a concern. Most institutions reported few or no problems in this area; however, we note with interest that institutions had to process 47 percent more pages in 2010–2011 than in 2008–2009.

Delegation orders

In the 2008–2009 special report, we emphasized that an appropriate delegation of authority is crucial to a well-functioning access to information operation. We made recommendations to eight institutions regarding their delegation orders: to either strictly adhere to the delegated authority of the coordinator and eliminate additional levels of approval; or to amend the delegation order to give the coordinator the authority and autonomy to approve the release of records. Both actions would have the net effect of streamlining the process and, other things being equal, mean faster turnaround times for responses.

Other good practices

The Royal Canadian Mounted Police (RCMP) anticipated receiving requests about its operations at the Vancouver 2010 Olympic and Paralympic Winter Games. To ensure that records were retrieved in a timely fashion at source, the organization embedded an access analyst at the event to process requests. *We consider this to be a best practice.*

We also note, with interest, that the RCMP sought, in its response to one of our 2010–2011 recommendations, the commitment from the Minister of Public Safety to demonstrate the leadership required to promote a culture of compliance and improve the institution's access to information performance.

The Canada Revenue Agency promoted the annual Right to Know Week as part of training it gave in program areas, using the event to promote the spirit of the *Access to Information Act*—not just the obligation to comply—among the participants.

The duty to assist was codified in the 2006 *Federal Accountability Act*. This duty requires institutions to make every reasonable effort to assist requesters in connection with their requests, respond to the request accurately and completely, and provide timely access to the records in the format requested.

We observed that institutions that made a concerted effort to respect the duty to assist have realized improvements in their operations. Officials at the RCMP reported improved results as the result of more open dialogue with requesters. The Canadian Security Intelligence Service (CSIS) also reported that communicating with its applicants has helped to streamline operations. In addition, CSIS has begun pro-actively processing frequently requested records with results that have proven so successful that a full-time resource has been assigned to this task. *We consider these efforts by the RCMP and CSIS to be best practices.*

Four of the eight institutions followed our recommendations, with corresponding positive results. For example, Canadian Heritage and CIDA both improved their approval processes, so they now respect the delegation order and do not delay the release of information. Some institutions, such as CRA, delegated some areas of responsibility to positions below the coordinator level to streamline the processing of requests.

Of the other four, three achieved better performance within the existing terms of their delegation order. Until only recently, Public Safety Canada, for example, had maintained that the delegated authority for approval to release proposed records must reside with senior managers who are ultimately responsible for their program areas. Public Safety Canada officials did acknowledge, however, that reviewing thousands of pages of records might not be the most efficient use of an assistant deputy minister's time, and have now amended the delegation order to give full authority for the application of exemptions to the access to information coordinator.

PCO's delegation order accords limited decision-making authority to the Access Director. This raises the concern that the Director has responsibilities for which the position is not delegated.

It remains our position that full delegation should rest with the access to information coordinator to encourage a simple, limited and, most of all, short approval process for release packages. (This is also the position the Treasury Board Secretariat [TBS] took in a study of best practices.[1]) We have made new recommendations about delegation orders in several report cards.

Time extensions

Taking an extension to accommodate the time required to respond to an access request is allowed under the Act in certain circumstances. However, we observed in 2008–2009 that access officials in some institutions were using extensions to manage their own workload, rather than that of program areas (it is the latter that the Act intends). As such, we recommended to four institutions that they document the criteria they used for the extensions they take to ensure they are reasonable and legitimate. We also issued an advisory notice (http://www.oic-ci.gc.ca/eng/rr-sl-odi-adi_2011_1.aspx) that sets out the factors we consider during investigations into complaints about institutions' use of time extensions for searching for or through large volumes of records (paragraph 9(1)(*a*) of the Act). The use of these extensions among the 18 institutions that were part of the report card process decreased (according to TBS data) by 6 percent from 2008–2009 to 2010–2011. This contrasts with a 24-percent increase system-wide.

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1 Canada, Treasury Board Secretariat, *Report on the TBS Study of Best Practices for Access to Information Requests Subject to Particular Processing*, April 2011, www.tbs-sct.gc.ca/atip-aiprp/tools/practices-pratiques-eng.asp.

National Defence implemented an excellent process whereby analysts must receive the agreement of a team leader before they may take an extension. Extensions of longer than 30 days require the agreement of the director and the coordinator. Consequently, National Defence significantly reduced its use of time extensions between 2008–2009 and 2010–2011. *We consider National Defence's new process to be a best practice.*

Despite this good example, and the small decrease (1.5 percent) in the use of extensions among our 18 institutions (according to TBS data), the report cards revealed that a number of these institutions, including CIDA, CSIS, Environment Canada and Public Safety Canada, increased their use of extensions between 2008–2009 and 2010–2011. There was also a 43-percent increase in extensions for consultations with third parties (TBS data). While this may help institutions avoid having requests become overdue, it does not, in our view, wholly fulfill institutions' duty to assist obligations, particularly to provide timely responses to requesters. Consequently, the use of extensions is a delay-related issue that requires continuing attention. To that end, we have issued in the present report new recommendations to institutions for which the use of time extensions is a problem. We are also conducting a systemic investigation on delay, to be completed in 2012–2013, that touches on institutions' use of time extensions.

Consultations

When an institution receives an access to information request and the responsive records pertain to the business of other institutions, the primary institution may consult with those other institutions (or is sometimes required to under Treasury Board policy). In previous years, we have reported that, as a result of growing workload, the turnaround time for consultation requests has greatly increased. This, in turn, has led to delays in responding to the original access request.

We made recommendations to four institutions in 2008–2009 relating to consultations, such as developing protocols with other federal institutions to facilitate timely interactions. CIDA reported having informal agreements in place with frequently consulted institutions, while Natural Resources Canada (NRCan) officials said they use the average completion time of previous consultations to take appropriate extensions.

In our systemic investigation on delay, to be completed in 2012–2013, we are looking more closely into consultations, including those with DFAIT and PCO. These remain a source of delay for institutions, and associated practices and turnaround times are affecting requesters' rights to timely responses to their access to information requests.

Resources

In the 2008–2009 report, we made recommendations to eight institutions regarding resources. We called on the deputy heads of institutions to devote the necessary personnel and financial resources, in the access office and/or program areas, to make full compliance with the Act possible. Seven of these institutions acted on our recommendation, providing among them such things as additional financial resources, more employees, new computer software, additional training opportunities and employee development programs.

For example, NRCan made a concentrated effort to enhance access training across the institution, made possible by additional resources. Environment Canada launched an employee development program and reported early successes, with staff progressing to increasingly senior positions.

Some access officials we spoke to during the 2010–2011 report card process expressed concern about potential cutbacks under the federal government's Deficit Reduction Action Plan. It is their view—and we strongly agree—that diminished resources would undermine the gains in timeliness institutions have made over the last three years and, ultimately, reduce compliance with the *Access to Information Act*. Increased resources have, in many institutions, been a key element of improved compliance with the Act. In light

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Other good practices

We noted an increase in the policy capacity of access to information offices in some institutions:

- Fisheries and Oceans Canada has a new policy team with its own deputy director and information technology specialist.

- The Correctional Service of Canada set up a new policy and training unit.

- The Canadian Food Inspection Agency created a new unit for policy development and training.

- Canadian Heritage created a new position for training and awareness, and policy work.

This new capacity has proven helpful in institutions in which senior managers have taken more responsibility for oversight of the access function and, consequently, have required more statistical reports. *We consider developing such capacity to be a best practice.*

of this, we emphasize that access to information is not only a cornerstone of democracy, as stated by the Supreme Court of Canada, but also a legislated obligation for government institutions.

Records/information management

In the 2008–2009 special report, we observed that several institutions had insufficient records management systems, resulting in inefficient and potentially incomplete records retrieval. We made recommendations to four institutions to identify and implement the necessary enhancements to records management to ensure a timely and effective search of records in response to access to information requests.

The institutions implemented this recommendation to varying degrees. Environment Canada went through a significant restructuring in 2008–2009, which ushered in greater stability and resulted in improved ability to retrieve records. With program areas having a better idea of where information is located, retrieval time has declined substantially, from an average of 26 days to 7. DFO recognized information management as a priority for 2010–2011 and refreshed both its hardware and software. Health Canada reported having put a multi-faceted plan in place to improve information management, which it will implement over the next three years. Meanwhile, it continues to struggle with records retrieval.

Since all but a few institutions reported difficulties with records retrieval in 2008–2009, it is noteworthy that the issue came up only rarely in 2010–2011, particularly in light of the 47-percent increase over the same period in the volume of pages to review (see box). This increase may reflect the complexity of projects on which public servants now work or may suggest that the advent of electronic records management systems is a mixed blessing. On the one hand, they may, in conjunction with the TBS Directive on Recordkeeping, have made it much easier for program areas to locate records. On the other, such repositories may have led to officials' keeping every record they produce rather than properly sorting and filing their documents.

Follow-up on recommendations to Treasury Board Secretariat

With the 2008–2009 report cards, we issued five recommendations to TBS related to the systemic issues (http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car fic-ren_2008-2009_5.aspx). As the administrator of the federal access to information system, TBS plays a key role

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Growing page volume

The volume of pages institutions reviewed for access requests they completed ballooned by 47 percent between 2008–2009 and 2010–2010.

Certain institutions saw a more dramatic increase than others. The number of pages the Canadian Food Inspection Agency reviewed in 2010–2011 tripled from 2008–2009, while at the Canada Revenue Agency, the page volume nearly doubled to more than 1.1 million, the highest among the 18 institutions in the 2010–2011 report card exercise. The ability of institutions to adapt to an increase in page volume appears to be an important factor in performance.

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in ensuring that institutions have the policies, support and resources they need to comply with the *Access to Information Act* and respond to requests in a timely manner.

We recommended that TBS assess the extent to which institutions implement best practices related to **delegation orders**. After conducting a review of delegation orders in 2010 (http://www.tbs-sct.gc.ca/atip-aiprp/tools/practices-pratiques-eng.asp), TBS issued new fact sheets and best practices on this topic in July 2011 (http://www.tbs-sct.gc.ca/atip-aiprp/tools/atifs-frlai-eng.asp).

TBS regularly reviews and updates the Management Accountability Framework (MAF), which sets out expectations of senior **leadership** for good public service management. In line with our recommendation, TBS has, over the past two years, added questions to the MAF focusing on institutions' principles, standards and policies within their access to information operations. This is an improvement from previous versions of the MAF, which only assessed whether institutions had met their statutory and regulatory requirements under the Act, met all the mandatory reporting requirements in their annual report to Parliament on access to information operations and ensured that the descriptions of their records holdings in InfoSource (http://www.infosource.gc.ca/index-eng.asp) were clear and up-to-date. However, TBS considers this area of management to be non-core and, as a result, will not be assessing it again until 2013–2014.

To augment the baseline of information available about access to information operations, we recommended that TBS collect more statistical data in various areas and assess the magnitude and impact of consultations between institutions. In 2010–2011, TBS began asking institutions to report on the number

of pages processed, timelines, **extensions**, **consultations** and delays. The results will be published in the Fall 2012 *InfoSource Bulletin* (http://www.infosource.gc.ca/bulletin/bulletin-eng.asp). We will monitor the trends these expanded statistics bring to light.

In February 2012, TBS announced that **consultations** under sections 15 (international affairs and defence) and 16 (law enforcement and investigations) would no longer be mandatory. This means that institutions may now exercise their own discretion about whether they need to consult with other institutions, except when they require more information to make that decision or when they intend to disclose information.

We will look with interest at data on the impact of limiting the circumstances in which institutions consult on sections 15 and 16—in the hopes that this helps improve timeliness across the access to information system. Our concern, however, is that these changes are biased towards limiting release of information. We will closely monitor the effects of this new approach to ensure institutions continue to apply exemptions and sever information properly. We will discuss this issue further in our report on the results of the systemic investigation into the causes of delay, to be released in 2012–2013.

Finally, we recommended that TBS focus, urgently, on developing an integrated **human resources** plan to address the shortage of access to information staff. Among other activities, TBS consulted in the fall of 2011 with institutions about their challenges, strengths and resulting training needs. This input informed the new training plan for 2012–2013. Other recruitment, retention and training initiatives continue while TBS works to establish a collective staffing process.

Appendix A contains our original recommendations and TBS's complete response from the last two reporting periods.

Office of the Information Commissioner commitments

In our report on the 2008–2009 report card exercise, we made four commitments to provide guidance and tools to support institutions. Below is a summary of our subsequent work.

Commitment 1
Publish a practice direction (advisory notice) on time extensions under paragraph 9(1)(*a*) of the *Access to Information Act*.

We published this notice on our website (http://www.oic-ci.gc.ca/eng/rr-sl-odi-adi_2011_1.aspx) in 2011.

Commitment 2
Develop and implement by the end of 2010–2011 a template for the notification of time extensions, and explore electronic tools to facilitate submission of these notices.

We have developed an electronic template for institutions to use to notify us, as required, of time extensions they take for more than 30 days. The electronic template includes information such as the date of the access request, the institution's file number, the text of the request, the date the notification of the extension was sent to the requester, the reason for the extension (under paragraphs 9(1)(*a*), (*b*) or (*c*) of the *Access to Information Act*), the length of the extension and whether the notice of the right to complain to us was included. A copy of the draft electronic template can be viewed on our website (http://www.oic-ci.gc.ca/eng/time-extensions-prorogations-de-delai.aspx). Please note that the template has not yet been finalized due to the potential that the Treasury Board Secretariat may develop an electronic access to information system that would be common to all government institutions. We will follow the progress of this project closely with our TBS colleagues to see whether any proposed system might include an extension notification function. Our own system will proceed should no similar function be developed by TBS in the near future.

Commitment 3
Publish a practice direction (advisory notice) on time extension notification procedures under subsection 9(2) of the *Access to Information Act*.

We published this notice on our website (http://www.oic-ci.gc.ca/eng/rr-sl-odi-adi_2011_1.aspx) in 2011.

Commitment 4
Assign an official to review and assess the extension notices and undertake follow-up actions.

We completed a review and analysis of the subsection 9(2) extension notices for the first three months of 2011 and the work on the notices from the rest of the year is well under way. Some of the trends we have seen are being examined as part of the systemic investigation regarding time extensions and consultations. Information about some trends was shared with our investigative branch to help develop and coordinate investigative strategies. We are also considering expanding the analysis of the extension notices to delve into even greater detail in 2012.

Compliance

Compliance with the *Access to Information Act* involves more than just timeliness; rather, it comprises how well an institution meets its obligations under the Act, as well as its overall access to information culture. We found that a combination of elements tended to result in greater compliance with the Act in both 2008–2009 and 2010–2011, when we looked at institutions that had been subject to the Act for a number of years, and in 2009–2010, when we studied Crown corporations and Agents of Parliament, who had only been subject to the Act since 2007. As we noted in our 2009–2010 report (http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_2.aspx), "For the institutions with records of good performance, it is clear that optimal compliance with the *Access to Information Act* is possible. It starts with the right attitude toward openness, which is intrinsically linked to leadership at the highest institutional level, the right tools and sufficient resources, and continues with a sound approach to responding to access to information requests."

Results

The 2010–2011 report cards focus only on those at-risk institutions that received an "average" rating ("C" grade) or below in 2008–2009. The top six performers that received "above average" and "outstanding" ratings were excused from further review to reduce their reporting burden.

The 2010–2011 results, similar to those from other years, feature both improved and diminished performance (**Figure 5**). The majority—13 of the 18 institutions—received a higher grade than in 2008–2009, and seven performed above average or better. Two of the remaining five institutions received the same grade as they did in 2008–2009, while three performed worse.

What we learned

A combination of factors, including the right attitude toward openness, leadership, the right tools and sufficient resources, tends to result in greater compliance with the Act.

Nearly three quarters (13 out of 18) of the institutions we assessed in 2010–2011 improved their compliance with the Act and received a higher grade in 2010–2011 than in 2008–2009. Two of the remaining five institutions received the same grade as they did in 2008–2009, while three performed worse.

Figure 5 : Overall performance ratings, 18 institutions, 2008–2009 and 2010–2011

INSTITUTION	2008–2009 GRADE	2010–2011 GRADE	2010–2011 OVERALL PERFORMANCE
Canadian Security Intelligence Service	D	A	Outstanding
Fisheries and Oceans Canada	C	A	Outstanding
Human Resources and Skills Development Canada	C	A	Outstanding
Canadian International Development Agency	F	B	Above average
National Defence	D	B	Above average
Privy Council Office	D	B	Above average
Public Safety Canada	C	B	Above average
Environment Canada	F	C	Average
Health Canada	D	C	Average
Natural Resources Canada	F	C	Average
Royal Canadian Mounted Police	C	C	Average
Canada Revenue Agency	D	D	Below average
Canadian Heritage	F	D	Below average
Correctional Service of Canada	F	D	Below average
Foreign Affairs and International Trade Canada	Red alert	D	Below average
Aboriginal Affairs and Northern Development Canada	C	F	Unsatisfactory
Canadian Food Inspection Agency	D	F	Unsatisfactory
Transport Canada	D	F	Unsatisfactory

2. Continuing the much-needed oversight

When we launched the three-year plan for report cards in 2009, we sought to bring detailed attention to the causes of delay in the access to information system and make evidence-based recommendations for improvement. We also aimed to encourage greater compliance with the *Access to Information Act*, and prompt institutions to make every effort to enhance the service they provide to requesters and Canadians. The overall improvement in institutions' performance and against the measures of timeliness that we have been tracking over the past three years suggests that the situation is getting better and that the report cards and the follow-up by the House of Commons Standing Committee on Access to Information, Privacy and Ethics (ETHI) have had a positive effect. In addition, we received 16-percent fewer administrative complaints, including deemed refusal and time extension complaints, against the 18 subject institutions in 2010–2011 compared to 2008–2009.

Nonetheless, we remain concerned about the fragile health of the access to information system, particularly in light of the budget cuts affecting institutions across government. These reductions could jeopardize the recent gains institutions have made, especially if the number of requests continues to climb.

In addition, from the report card exercise and our complaints investigations, we have learned about practices that are contrary to both the spirit and the letter of the Act. For example, we have seen institutions that wish to avoid having their requests become overdue close files before receiving responses to consultations. In some instances, institutions exempted all the information in records subject to a request without considering whether they could sever information that could be released. In other cases, institutions simply closed the file without applying any exemption. Neither of these practices meets an institution's obligation to respond completely and accurately to a request. Moreover, closing a file eliminates any incentive on the part of either institution to complete the consultation promptly. This practice also potentially compromises requesters' right to complain about an institution's response. Our systemic investigation into delay will look into this issue in more detail, and will be completed in 2012–2013.

We have also learned of instances in which institutions have decided to not retrieve records when—in their view but without even looking at the records—the information would be exempt

in its entirety. This is contrary to clear jurisprudence of the Federal Court of Appeal, which has confirmed that an institution must retrieve and review all responsive information (see paragraph 53 in *Canadian Broadcasting Corporation v Canada (Information Commissioner)* 2011 FCA 326). In addition, the complaint process can be compromised, since unidentified records may be disposed of despite the existence of an ongoing complaint or judicial review.

These practices appear to be designed to expedite the processing of requests and avoid files becoming overdue, at the expense of requesters' rights.

In light of both the improvements we have seen in institutions' performance and our ongoing concerns, we take this opportunity to emphasize the importance of oversight to the access to information system.

The report card process and initiatives we took in parallel with it, including systemic investigations and meetings our senior officials held with their counterparts at the institutions, have impressed upon them the importance of living up to their access to information obligations and yielded improvements in compliance. ETHI hearings subsequent to the release of the report cards further underlined the importance of oversight of the access function. To help solidify the gains, we have recommended that each of the 18 institutions report on their progress implementing our recommendations and any improvement plans they have in place in their annual report to Parliament on access to information operations. We will be reviewing these reports and call on TBS as well as ETHI to do likewise and, when necessary, act on areas of concern.

We are also ensuring effective oversight through our complaints investigations by more fully, systematically and proactively addressing poor administrative practices and instances of non-compliance with the *Access to Information Act*. We have advanced formal recommendations related to systemic issues and will pursue egregious examples of non-compliance in Federal Court. We will also be monitoring, through our investigations and ongoing meetings with senior officials, institutions whose performance was average or below this year (received a "C" grade or below).

This report brings this three-year project almost to a close. As a final step, we will prepare in 2012 assessments of the performance of the Canadian Broadcasting Corporation and Canada Post, the two institutions that performed very poorly in the 2009–2010 report card exercise. We will also report the results of our systemic investigations into specific causes of delay, including time extensions, in 2012–2013.

However, we will not publish report cards for the next two years. Instead, we will, having focused since 2008 on the subject of delay in the access to information system, dedicate all our investigative resources to pursuing individual complaints against institutions in order to maximize disclosure of information. We will deal with recurring problems through systemic investigations, as required. We will then launch, if necessary, a new series of report cards in the spring of 2014, to look at access to information performance in the 2013–2014 reporting year. We would choose institutions based on our analysis of their performance, as set out in the expanded TBS statistics, and the number and type of complaints we receive about them.

Report cards

Aboriginal Affairs and Northern Development Canada

(formerly Indian and Northern Affairs Canada)

Aboriginal Affairs and Northern Development Canada (AANDC) is responsible for meeting the Government of Canada's obligations and commitments to Canada's First Nations, Inuit and Métis, and for fulfilling the federal government's constitutional responsibilities in the North. AANDC supports Aboriginal people and northerners in their efforts to improve their social well-being and economic prosperity, develop healthier, more sustainable communities, and participate more fully in Canada's political, social and economic development.

Assessment
(Received a C in 2008–2009)

- AANDC performed poorly in 2010–2011, despite an overall decrease in workload. It completed nearly half of the new requests it received after the deadline it had set, and the overall average time to complete a request was 128 days. The Office of the Information Commissioner (OIC) registered more than triple the number of complaints against AANDC in 2010–2011 than it did in 2008–2009. More than half of these complaints were delay-related.

- The current access coordinator cited a number of factors that may have affected performance, including staff turnover and inexperience, as well as access analysts being tasked with non-access work, such as responding to privacy requests and queries about Indian status.

- AANDC did not respond satisfactorily to four out of the OIC's five 2008–2009 recommendations. As a result, the OIC is re-issuing recommendations in these areas, along with new ones to prompt much needed improvement (see page 25).

* Percentage of carried over and new requests delayed beyond the deadlines (30 days and extended) set out in the *Access to Information Act*. (See Appendix B for the formula the OIC used to calculate this rate.)

** A complaint is resolved when the OIC finds it has merit and the institution resolves it to the Commissioner's satisfaction. The number of complaints reported here is current as of November 2011. As a result, the figure for 2008–2009 may be different from what appeared in the 2008–2009 report card.

QUICK FACTS	2008–2009	2010–2011
Number of requests carried over from previous fiscal year	80	100
Number of new requests	378	312
Number of requests completed	373	278
Number of pages reviewed for requests completed	115,999	73,348
Deemed refusal rate	11.6%*	51%*
Average number of days to complete a request	102	128
Number of consultation requests received	139	135
Percentage of required extension notices submitted to the OIC	<85%	<85%
Number of complaints registered with the OIC	13	47
Number of complaints the OIC resolved	6**	18**
Number of full-time equivalents in access to information operations, as of the end of the fiscal year	13	10.95

FOLLOW-UP ON 2008–2009 RECOMMENDATIONS

Leadership..Did not meet expectations

Deemed refusal rate..................................Did not meet expectations

Records management ....Met expectations

Extension notices.....................................Did not meet expectations

Average completion time...........................Did not meet expectations

See report card text for details. For the full text of the recommendations and the institution's response, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2008-2009_31.aspx.

Report card

Aboriginal Affairs and Northern Development Canada (AANDC) first took part in the report card process in 2008–2009, when it received a "C" grade. Since then, AANDC's access to information performance has sharply declined, despite a reduced workload. The institution completed nearly half of the new requests it received in 2010–2011 after the deadline (30 days or extended) it had set, and the overall average time to complete a request was 128 days. In 2010–2011, the Office of the Information Commissioner (OIC) registered more than triple the number of complaints against AANDC than it had in 2008–2009. More than half these complaints were delay-related (18 deemed refusal complaints and 10 time extension complaints).

A number of factors may have accounted for this poor performance in the 2010-2011 reporting period. There had been significant staff turnover in the access to information office, which already had a number of vacancies in 2008–2009. However, AANDC had 10.95 full-time equivalents handling access matters in 2010–2011, which translates to about 30 new requests per year for each staff member. This is a reasonable ratio in the OIC's estimation.

AANDC also reported that access analysts were spending their time doing privacy and other work during the reporting period because there were no designated privacy analysts on staff. This is significant, since lawyers for Indian residential school claimants were reportedly advising their clients to request their records through the privacy process, which added to the division's workload. Members of the access to information staff were also taking on additional tasks such as responding to requests for Indian status verification.

AANDC analysts were also reported to have initially lacked experience in the access field. They had been drawn into analytical positions from collective pools of candidates with the requisite competencies, but not necessarily experience applying access legislation.

In response to the 2008–2009 recommendations, AANDC initiated weekly reporting of access to information activity to senior management. AANDC also reported that the coordinator and some senior managers have access to information compliance included in their performance management agreements.

Despite AANDC's unsatisfactory performance in 2010–2011, the institution reduced its backlog of long-standing requests from 150 to 55 by the end of the reporting period. Consultants were used for this task, but will now be scaled back in favour of hiring permanent staff into an estimated 16 positions.

AANDC has also drafted an improvement plan for its access to information operations. In addition, the institution began posting summaries of completed access requests online well in advance of the Treasury Board Secretariat requirement to do so.

In July 2011, AANDC hired a new access to information coordinator at the executive level with the aim of revitalizing the program and giving it a higher profile in the institution. Officials report considerable progress, including elimination of the backlog, a much improved compliance rate, increased training and support from senior management.

Follow-up on the 2008–2009 recommendations

The OIC issued five recommendations to AANDC with the 2008–2009 report card. The following summarizes the subsequent developments at the institution in response. (For the full text of the recommendations and the institution's response, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2008-2009_31.aspx.)

1. At the time the recommendations were issued, AANDC agreed with the OIC that the deputy minister and minister needed to show leadership to establish a culture of compliance at AANDC, and committed to look more closely into improved accountability measures. Despite some progress in this regard, AANDC's performance declined considerably in the 2010–2011 reporting period. Based on its observations over the years it has been preparing report cards, the OIC is of the view that tangible results, such as an improvement in deemed refusal rate, are a sure sign of management commitment to the access to information function.

2. AANDC committed to improving its deemed refusal rate, and only taking extensions for legitimate reasons, not to keep responses on time. AANDC was not successful in reducing its deemed refusal rate—in fact, it increased by nearly 40 percentage points from 2008–2009. In addition, the number and proportion of the new requests for which AANDC took extensions both increased.

3. In terms of records management, the current access coordinator explained that AANDC's access to information case management system, corporate electronic record repository and information management policies have been in place since 2005. Together, these have greatly increased the accuracy of retrieval. Consequently, AANDC reports that records management is not a significant challenge to the success of the access program.

4. In 2008–2009, AANDC submitted fewer than 85 percent of the required notices about the extensions it took for more than 30 days. In 2010–2011, while the number of submissions improved, it did not come up to the OIC's 85-percent standard for acceptable performance in this area.

5. In response to the recommendation that AANDC reduce its average completion time for requests, AANDC said it would conduct a workload analysis to examine how requests are processed and where it could be more efficient. This was reported to be part of ongoing monitoring efforts. These efforts have not borne fruit, however, with the average completion time rising from 102 days in 2008–2009 to 128 days in 2010–2011.

Access to information workload, 2008–2009 to 2010–2011

This graph shows the sources of Aboriginal Affairs and Northern Development Canada's workload for the three fiscal years starting in 2008–2009. Comparing 2008–2009 to 2010–2011, the institution saw an 8-percent decrease in its workload. It received 17 percent fewer access requests and 3 percent fewer consultation requests, while the number of requests the institution carried over from the previous fiscal year increased by one quarter. The number of pages reviewed for requests completed dropped by 37 percent.
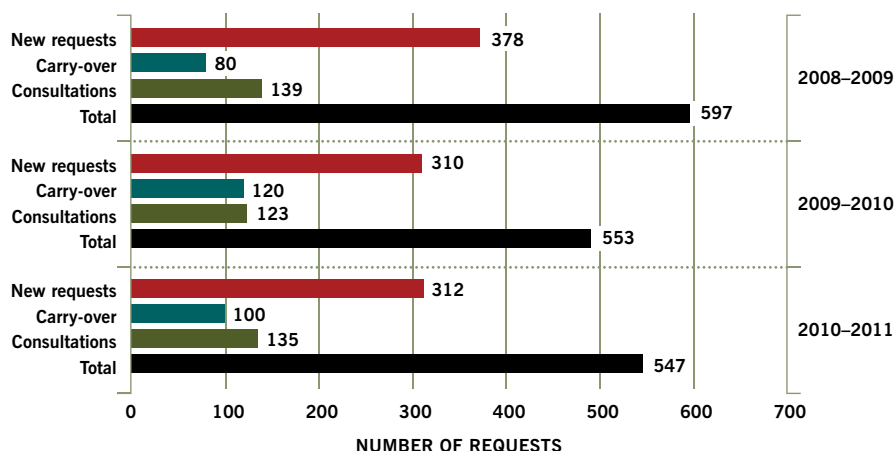
Bar chart — NUMBER OF REQUESTS

2008–2009
- New requests: 378
- Carry-over: 80
- Consultations: 139
- Total: 597

2009–2010
- New requests: 310
- Carry-over: 120
- Consultations: 123
- Total: 553

2010–2011
- New requests: 312
- Carry-over: 100
- Consultations: 135
- Total: 547

How long it took to complete new requests, 2008–2009 and 2010–2011

Between 2008–2009 and 2010–2011, the proportion of new access requests Aboriginal Affairs and Northern Development Canada (AANDC) completed within the timelines (30 days and extended) set out in the *Access to Information Act* dropped from 92 percent to 54 percent. The remaining requests were completed late: 21 requests in 2008–2009 and 94 in 2010–2011. The Office of the Information Commissioner is concerned, first, that the pool of requests completed late more than quadrupled and, second, that it took AANDC longer to complete these requests—in particular, that the number of overdue requests that took more than 90 days past the due date to complete grew from 4 to 32.
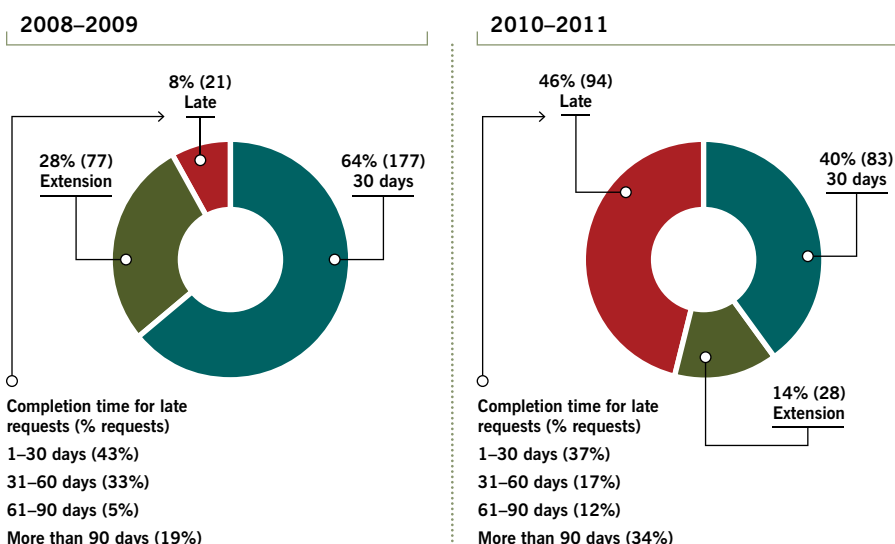
2008–2009
- 8% (21) Late
- 28% (77) Extension
- 64% (177) 30 days

Completion time for late requests (% requests)
1–30 days (43%)
31–60 days (33%)
61–90 days (5%)
More than 90 days (19%)

2010–2011
- 46% (94) Late
- 40% (83) 30 days
- 14% (28) Extension

Completion time for late requests (% requests)
1–30 days (37%)
31–60 days (17%)
61–90 days (12%)
More than 90 days (34%)

Number and length of time extensions taken, 2008–2009 and 2010–2011

This graph shows the number and length of the time extensions Aboriginal Affairs and Northern Development Canada (AANDC) reported to have taken in 2008–2009 and 2010–2011. The institution supplied this information in the notices it sent to the Office of the Information Commissioner (OIC) under subsection 9(2) of the *Access to Information Act*. AANDC submitted fewer than 85 percent of these notices in 2008–2009, at which point the OIC issued a recommendation that AANDC improve its performance in this area. While the institution did submit more notices in 2010–2011, it did not meet the OIC's 85-percent standard for acceptable performance. The OIC notes the increase in the number of long extensions AANDC took in 2010–2011.
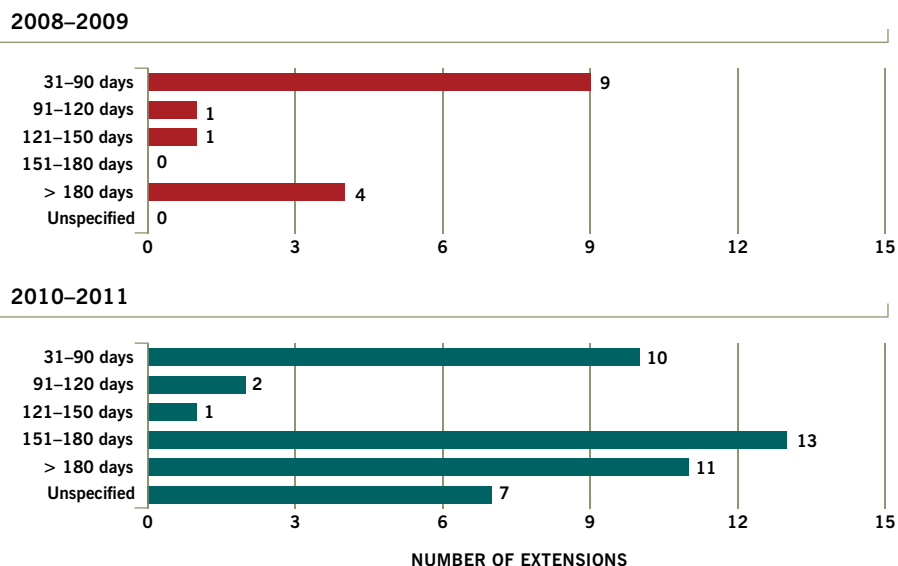
2008–2009

	Number of extensions
31–90 days	9
91–120 days	1
121–150 days	1
151–180 days	0
> 180 days	4
Unspecified	0

2010–2011

	Number of extensions
31–90 days	10
91–120 days	2
121–150 days	1
151–180 days	13
> 180 days	11
Unspecified	7

NUMBER OF EXTENSIONS

Number and outcome of delay-related complaints, 2008–2009 to 2010–2011

These graphs show the number and outcome of two types of complaint registered against Aboriginal Affairs and Northern Development Canada (AANDC) in the three fiscal years starting in 2008–2009: complaints about deemed refusals (access to information requests that AANDC delayed beyond the deadlines—30 days and extended—set out in the *Access to Information Act*) and complaints about AANDC's use of the time extensions allowed under the Act. The number of both types of complaint against AANDC has increased since 2008–2009.
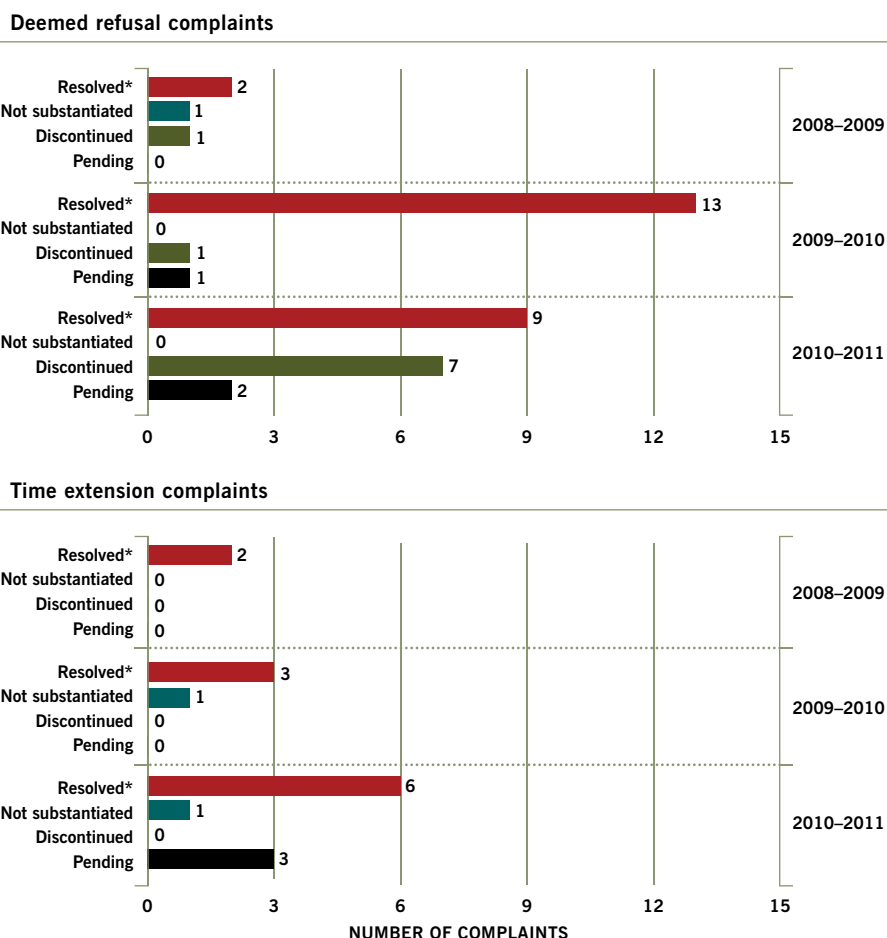
Deemed refusal complaints

Resolved*	2	2008–2009
Not substantiated	1	
Discontinued	1	
Pending	0	
Resolved*	13	2009–2010
Not substantiated	0	
Discontinued	1	
Pending	1	
Resolved*	9	2010–2011
Not substantiated	0	
Discontinued	7	
Pending	2	

Time extension complaints

Resolved*	2	2008–2009
Not substantiated	0	
Discontinued	0	
Pending	0	
Resolved*	3	2009–2010
Not substantiated	1	
Discontinued	0	
Pending	0	
Resolved*	6	2010–2011
Not substantiated	1	
Discontinued	0	
Pending	3	

NUMBER OF COMPLAINTS

* Resolved complaints are those that the Office of the Information Commissioner finds to have merit and that the institution resolves to the Commissioner's satisfaction.

Number and outcome of complaints received by the Office of the Information Commissioner, 2008–2009 to 2010–2011

	RESOLVED*	NOT SUBSTANTIATED	DISCONTINUED	PENDING	TOTAL
2008–2009					
Administrative	4	2	1	0	**7**
Refusals	2	0	4	0	**6**
Cabinet confidences	0	0	0	0	**0**
Total	**6**	**2**	**5**	**0**	13
2009–2010					
Administrative	17	1	2	1	**21**
Refusals	2	0	1	4	**7**
Cabinet confidences	0	0	1	0	**1**
Total	**19**	**1**	**4**	**5**	29
2010–2011					
Administrative	17	2	9**	9	**37**
Refusals	1	0	1	8	**10**
Cabinet confidences	0	0	0	0	**0**
Total	**18**	**2**	**10**	**17**	47

This table sets out the number and outcome of the complaints the Office of the Information Commissioner (OIC) registered against Aboriginal Affairs and Northern Development Canada (AANDC) in the three fiscal years starting in 2008–2009. The 13 complaints in 2008–2009 were fewer than in the previous year; however, the number of complaints more than tripled in 2010–2011, rising to 47. The complaints are increasingly in the administrative category, which includes complaints about deemed refusals, fees and time extensions.

* Resolved complaints are those that the OIC finds to have merit and that the institution resolves to the Commissioner's satisfaction.

** The OIC began using new disposition categories in 2010–2011. That year, there were two miscellaneous complaints in the new Settled category, which comprises complaints about minor errors, settled to the Commissioner's satisfaction without a finding. For reporting purposes, these complaints were placed in the Discontinued category.

2010–2011 recommendations

Given AANDC's poor performance in 2010–2011 and that it did not respond satisfactorily to four out of the OIC's five 2008–2009 recommendations, the OIC is re-issuing recommendations in these areas, along with new ones to prompt much needed improvement.

1. The Office of the Information Commissioner recommends that the Minister and the Deputy Minister of Aboriginal Affairs and Northern Development Canada take a strong leadership role in establishing a culture of compliance throughout the institution.

   RESPONSE: *While AANDC understands the concern of the OIC with respect to departmental numbers for the period in question (2010–2011), it is important to note that the eight recommendations given are outdated, since they refer to that period only. As such, AANDC's responses detail both the current performance of the department and the actions it took during 2010–2011 and 2011–2012 to arrive there.*

The department began remedial action as early as January 2010, culminating in the current compliance rating of 100%. Upon receiving the OIC's recommendations from its 2008–2009 Report Card, the Deputy Minister immediately followed through in developing and implementing an action plan to remedy the irritants and systemic issues that were hampering compliance. As detailed to the OIC in its response letter of January 19, 2010, this included improving accountability to and from senior management, applying extensions more regularly in order to avoid deemed refusals, undertaking a workload analysis, copying the OIC on all extension notices, and increasing our training. Measures proposed in the action plan were implemented during 2010–2011.

Furthermore, senior management took swift action to implement the plan by completing the workload analysis by March 2010. Senior management also took direct responsibility for reviewing, assessing and determining a course of action for all backlog files which resulted in the complete elimination of the backlog by Q3 2011–2012. However, the unfortunate but expected statistical outcome of eliminating a backlog of aged requests was the inflation

of the departmental deemed refusal rate and average completion time. The gap analysis and mapping of processes was completed in June 2011.

It should not be overlooked that the leadership of the Deputy Minister and the Associate Deputy Minister were critical factors in ensuring that the ATIP program was set, and remains, on the right course.

2. The Office of the Information Commissioner recommends that the Deputy Minister of Aboriginal Affairs and Northern Development Canada exercise close management oversight of access to information operations to ensure improvement.

   RESPONSE: *Soon after AANDC received the recommendations from the OIC's 2008–2009 Report Card in December 2009, the Deputy Minister began close tracking and oversight of access to information operations. Senior Management was apprised weekly on the administration of access requests via weekly reports on incoming and outgoing requests. Additionally, a report on record retrieval performance by program areas was developed for monthly tabling at Senior Management Committee. These practices have continued consistently since their inception and are a regular part of the current ATIP reporting regime.*

3. The Office of the Information Commissioner recommends that the Deputy Minister of Aboriginal Affairs and Northern Development Canada ensure that there are sufficient resources to manage the workload in the access to information office division and that these resources are primarily dedicated to processing access to information requests.

   RESPONSE: *Since Q2 2011–2012, AANDC has been maintaining 100% compliance with the ATIA, therefore it is our view that current staffing levels are adequate to meet our demand.*

4. The Office of the Information Commissioner recommends that senior access to information officials at Aboriginal Affairs and Northern Development Canada ensure that their staff are fully trained in how to apply the *Access to Information Act*.

   RESPONSE: *During 2011–2012, several staff members attended the Canada School of Public Service course of ATIP fundamentals. During the same period AANDC staffed two permanent positions at the PM-05 level with experienced ATIP professionals to be team leaders and provide ongoing individual coaching and mentoring to analysts as needed. As part of its year-long training plan, the ATIP Division also included bi-weekly in-house training*

sessions on specific sections of the ATIA for interested analysts. In addition, cases of interest are brought forward at divisional meetings in order to foster shared learning among analysts.

5. The Office of the Information Commissioner recommends that Aboriginal Affairs and Northern Development Canada reduce its deemed refusal rate to zero.

   RESPONSE: *AANDC has achieved and maintained 100% compliance with the legislation since Q2 2011.*

6. The Office of the Information Commissioner recommends that Aboriginal Affairs and Northern Development Canada comply with the Act and notify the Office of the Information Commissioner of all the extensions it takes for more than 30 days.

   RESPONSE: *AANDC will continue to copy the OIC on all notices of extension over 30 days.*

7. The Office of the Information Commissioner recommends that Aboriginal Affairs and Northern Development Canada reduce its average completion time for access requests.

   RESPONSE: *As of Q2 2011–2012, AANDC's average completion time on requests that do not require consultation is approximately 22 to 27 days, well under the 30 days permitted by the legislation.*

8. The Office of the Information Commissioner recommends that Aboriginal Affairs and Northern Development Canada report in its annual report to Parliament on access to information operations on its progress implementing its improvement plan and these recommendations.

   RESPONSE: *AANDC will continue to adhere to the required format in reporting on all aspects of its operations in the departmental Access to Information Act Annual Report to Parliament.*

Canada Revenue Agency

The Canada Revenue Agency (CRA) administers tax laws for the Government of Canada and for most provinces and territories. CRA also delivers economic and social benefit and incentive programs through the tax system.

Assessment
(Received a D in 2008–2009)

- CRA's performance in 2010–2011 reflects its enormous challenges—including receiving 46 percent more new access requests than in 2008–2009 and having to review more than 1.1 million pages—notwithstanding significant efforts and support from senior leadership. CRA's deemed refusal rate was 33.5 percent, and the average time to complete a request was 146 days. The Office of the Information Commissioner (OIC) received 502 complaints against CRA in 2010–2011, the majority of which pertained to delay.

- CRA took concrete steps to eliminate its backlog of 500 long-standing requests (there were about 100 left at the end of 2010–2011). CRA took this action to make operations sustainable and improve performance over the long term.

- CRA responded satisfactorily to two of the OIC's five 2008–2009 recommendations and partially to a third. The OIC is still concerned about CRA's delegation order and deemed refusal rate. The OIC has re-issued recommendations on these points, along with new ones to prompt CRA to take measures that, if successful, would lead to a decrease in its request and complaint volumes (see page 31).

 * Percentage of carried over and new requests delayed beyond the deadlines (30 days and extended) set out in the *Access to Information Act*. (See Appendix B for the formula the OIC used to calculate this rate.)

** A complaint is resolved when the OIC finds it has merit and the institution resolves it to the Commissioner's satisfaction. The number of complaints reported here is current as of November 2011. As a result, the figure for 2008–2009 may differ from what appeared in the 2008–2009 report card.

\+ The actual staff complement for CRA's access to information and privacy office was 79 full-time equivalents (FTEs). When reporting on its staff complement to the Treasury Board Secretariat, CRA apportions the number of FTEs according to the ratio of access and privacy files in its inventory. Therefore, the 38.3 FTEs noted here does not represent a decrease in staff from 2008–2009, but rather an increase in the ratio of privacy to access requests, for which staff were proportionately assigned.

QUICK FACTS	2008–2009	2010–2011
Number of requests carried over from previous fiscal year	690	**1,043**
Number of new requests	1,770	**2,589**
Number of requests completed	1,540	**2,605**
Number of pages reviewed for requests completed	575,231	**1,116,015**
Deemed refusal rate	15.1%*	**33.5%***
Average number of days to complete a request	73	**146**
Average number of days to complete a request received in 2010–2011	n/a	**56**
Number of consultation requests received	125	**116**
Percentage of required extension notices submitted to the OIC	>85%	**<85%**
Number of complaints registered with the OIC	302	**502**
Number of complaints the OIC resolved	137**	**171****
Number of full-time equivalents in access to information operations, as of the end of the fiscal year	44	**38.3+**

FOLLOW-UP ON 2008–2009 RECOMMENDATIONS

Delegation order ....Did not meet expectations

Time extensions... Met expectations

Backlog .... Met expectations

Deemed refusal rate..................................Did not meet expectations

Extension notices..............................Did not fully meet expectations

See report card text for details. For the full text of the recommendations, as well as the institution's initial response and October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_1.aspx.

Report card

The Canada Revenue Agency's (CRA) performance in 2010–2011 reflects its enormous challenges. It received 46 percent more new access requests than in 2008–2009, and officials had to review more than 1.1 million pages for the requests it closed (the highest volume among institutions in the 2010–2011 report card process). CRA's deemed refusal rate was 33.5 percent.

CRA made a conscious decision in 2010–2011 to focus on the backlog of more than 500 long-standing large and complex files to make operations sustainable and improve performance over the long term. Some of these files dated from as far back as 2006. When CRA made this decision, it did not anticipate receiving such a large increase in requests and page volumes in 2010–2011.

A dedicated team did reduce the backlog to about 100 files by the end of 2010–2011. While doing so, however, CRA's new requests surged, particularly from frequent requesters, and the deemed refusal rate increased. Also, by completing older files, the overall average time to complete a request doubled from the 73 days CRA had achieved in 2008–2009 to 146 days (although it is 56 days when looking just at requests received and completed in 2010–2011). Complaints to the Office of the Information Commissioner (OIC) rose by two thirds to reach 502, by far the most of any of this year's cohort. Two requesters were responsible for 78 percent of the complaints the OIC registered against CRA in 2010–2011.The majority of these complaints were delay-related, although 40 percent of them were subsequently discontinued. Exemption complaints were also high, at 105, along with 95 complaints in the "no records/incomplete response" category. CRA has worked closely with the OIC to resolve them.

There are indications stemming from OIC complaint investigations that CRA had been applying exemptions and exclusions without specifying the precise parts of the records to which they apply in a limited number of files. This is having an impact on the OIC's ability to advance complaint investigations when CRA has to retroactively apply the exemptions and exclusions. At the time of writing, CRA appears to have corrected the deficiencies, and reported that a new redaction system requires analysts to attach a rationale to exemptions when taking them.

CRA has long received bulk requests from two requesters. The institution dealt with this by establishing a dedicated team to manage these requests. In financial terms, CRA estimates that it had to spend hundreds of thousands of dollars in 2010–2011 to respond to one of these requesters.

The OIC acknowledges the trying circumstances under which the CRA operates, and that these bulk requests and the corresponding complaints challenge CRA's ability to be responsive to requesters. These circumstances have also had a significant impact on CRA's performance and deemed refusal rate and the OIC's workload.

According to Treasury Board Secretariat statistics, requests to CRA increased by 44 percent in the 2010-2011 reporting period. Some institutions have had success in reducing the number of incoming requests by taking a proactive approach to access to information, by making certain types of records available on their Internet sites in an effort to be transparent. This approach can sometimes divert the number of formal requests to the institution.

Following the institution's "D" grade on the 2008–2009 report card, CRA senior management allotted 21 new full-time equivalents for access to information and privacy operations at headquarters as well as the regional offices in Montréal and Vancouver. This was part of an extensive business plan developed in September 2010. An additional 37 full-time equivalents were added in September 2011. Further new resources were brought on to address auxiliary matters in the access and privacy office, such as training, communications and information technology. Managers in the regional offices now have greater delegated authority (as do all access managers) and no longer require regional assistant commissioners to approve request responses. This has had a cohesive effect on access operations, access officials said.

CRA reported that it will take a full business cycle of three to five years to see marked improvement in its access to information performance.

Follow-up on the 2008–2009 recommendations

The OIC issued five recommendations to CRA with the 2008–2009 report card. The following summarizes the subsequent developments at the institution in response. (For the full text of the recommendations, the institution's response and its October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_1.aspx).

1. CRA amended the delegation order in response to the OIC's recommendation so that access managers are now able to sign off on files that formerly only the two assistant directors could approve. This change has had positive results for the flow of requests, CRA reported. In addition, the deputy assistant commissioners were removed from

the delegation order. Despite these improvements, it is the OIC's view that the delegation order is still too protracted, with assistant commissioners in the regions and program areas having delegated authority. Access officials reported that this configuration has no impact on CRA's ability to process requests in a timely manner. However, the OIC's position remains that protracted delegation orders create the potential for delay.

2. In response to the OIC's recommendation to document the criteria it uses for taking extensions for searching through records or interference with operations, CRA reported that it does not take these extensions systematically and analysts are required to document the reason for taking them. However,

CRA's use of these extensions remains high, at 902 in 2010–2011, with half of them being for more than 30 days. The institution reported that it is developing a new procedures manual that will, among other things, provide guidance on how to make extension decisions.

3. The OIC was concerned in 2008–2009 about the size of CRA's backlog of long-standing requests. In addition to reducing that inventory by nearly four fifths, and clearing almost all the very old cases (at the time of writing there were seven access files left from prior to April 1, 2010), CRA is now working to keep the backlog of more recent files (requests carried over from 2010–2011 into 2011–2012) under control.

Access to information workload, 2008–2009 to 2010–2011

This graph shows the sources of the Canada Revenue Agency's workload for the three fiscal years starting in 2008–2009. Comparing 2008–2009 to 2010–2011, the institution saw a 45-percent increase in its workload, due to receiving 46 percent more new access requests and having a 51-percent larger carry-over of requests from the previous fiscal year (43 percent of which were already late). The number of pages reviewed for requests completed nearly doubled (94-percent increase) to more than 1.1 million, the most among the institutions that were part of the 2010–2011 report card process.
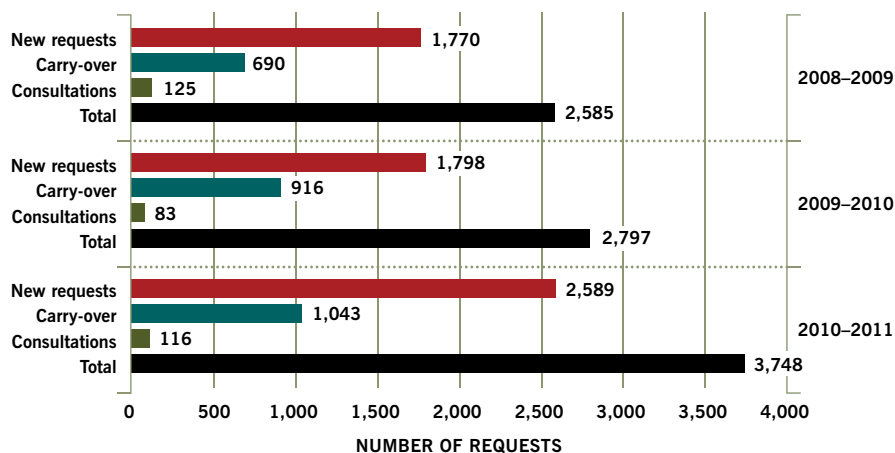
New requests	1,770	**2008–2009**
Carry-over	690	
Consultations	125	
Total	2,585	
New requests	1,798	**2009–2010**
Carry-over	916	
Consultations	83	
Total	2,797	
New requests	2,589	**2010–2011**
Carry-over	1,043	
Consultations	116	
Total	3,748	

NUMBER OF REQUESTS

How long it took to complete new requests, 2008–2009 and 2010–2011

Between 2008–2009 and 2010–2011, the proportion of new access requests the Canada Revenue Agency (CRA) completed within the timelines (30 days and extended) set out in the *Access to Information Act* dropped from 92 percent to 77 percent. The remaining requests were completed late: 92 requests in 2008–2009 and 400 in 2010–2011. The Office of the Information Commissioner is concerned, first, that the pool of requests completed late more than quadrupled and, second, that it took CRA longer to complete these requests: 23 percent were more than 90 days late in 2010–2011 compared to 10 percent in 2008–2009.
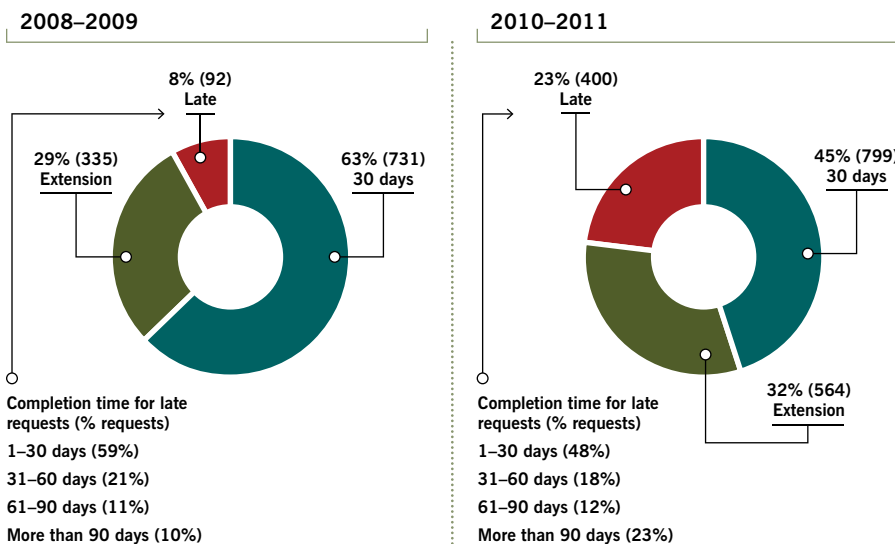
2008–2009

8% (92) Late
29% (335) Extension
63% (731) 30 days

Completion time for late requests (% requests)
1–30 days (59%)
31–60 days (21%)
61–90 days (11%)
More than 90 days (10%)

2010–2011

23% (400) Late
45% (799) 30 days
32% (564) Extension

Completion time for late requests (% requests)
1–30 days (48%)
31–60 days (18%)
61–90 days (12%)
More than 90 days (23%)

Number and length of time extensions taken, 2008–2009 and 2010–2011

This graph shows the number and length of the time extensions the Canada Revenue Agency (CRA) reported to have taken in 2008–2009 and 2010–2011. The institution supplied this information in the notices it sent to the Office of the Information Commissioner (OIC) under subsection 9(2) of the *Access to Information Act*. CRA met the OIC's 85-percent standard for acceptable performance in this area in 2008–2009 and came within one percentage point in 2010–2011.
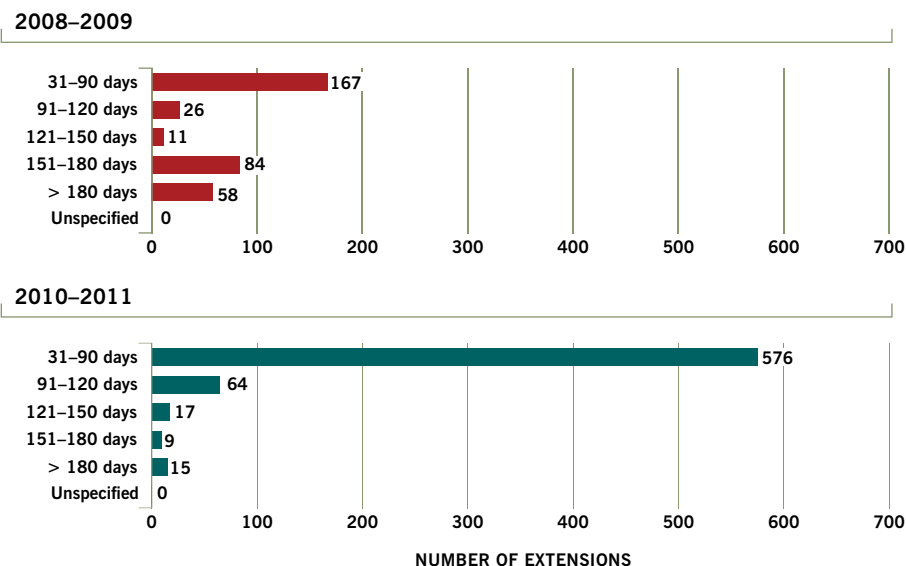
2008–2009

31–90 days	167
91–120 days	26
121–150 days	11
151–180 days	84
> 180 days	58
Unspecified	0

2010–2011

31–90 days	576
91–120 days	64
121–150 days	17
151–180 days	9
> 180 days	15
Unspecified	0

NUMBER OF EXTENSIONS

Number and outcome of delay-related complaints, 2008–2009 to 2010–2011

These graphs show the number and outcome of two types of complaint registered against the Canada Revenue Agency (CRA) in the three fiscal years starting in 2008–2009: complaints about deemed refusals (access to information requests that CRA delayed beyond the deadlines—30 days and extended—set out in the *Access to Information Act*) and complaints about CRA's use of the time extensions allowed under the Act. The Office of the Information Commissioner (OIC) received 256 deemed refusal complaints against CRA in 2010–2011, compared to fewer than 50 in each of the previous two years. Even excluding the complaints that were discontinued (103), the 2010–2011 complaint volume is still more than three times greater than it had been in recent years. In contrast, the number of time extension complaints dropped by 80 percent.
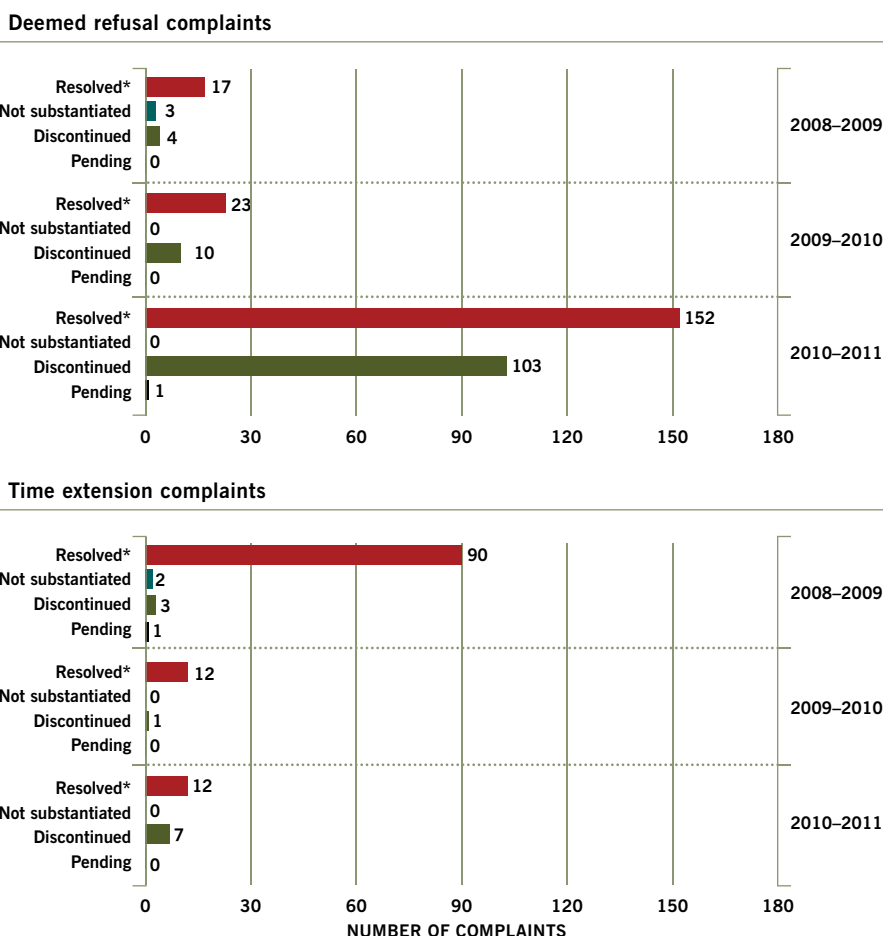
Deemed refusal complaints

2008–2009
Resolved*	17
Not substantiated	3
Discontinued	4
Pending	0

2009–2010
Resolved*	23
Not substantiated	0
Discontinued	10
Pending	0

2010–2011
Resolved*	152
Not substantiated	0
Discontinued	103
Pending	1

Time extension complaints

2008–2009
Resolved*	90
Not substantiated	2
Discontinued	3
Pending	1

2009–2010
Resolved*	12
Not substantiated	0
Discontinued	1
Pending	0

2010–2011
Resolved*	12
Not substantiated	0
Discontinued	7
Pending	0

NUMBER OF COMPLAINTS

* Resolved complaints are those that the OIC finds to have merit and that the institution resolves to the Commissioner's satisfaction.

Number and outcome of complaints received by the Office of the Information Commissioner, 2008–2009 to 2010–2011

	RESOLVED*	NOT SUBSTANTIATED	DISCONTINUED	PENDING	TOTAL
2008–2009					
Administrative	113	5	22	1	**141**
Refusals	24	6	117	14	**161**
Cabinet confidences	0	0	0	0	**0**
Total	**137**	**11**	**139**	**15**	302
2009–2010					
Administrative	37	2	11	1	**51**
Refusals	25	19	77	88	**209**
Cabinet confidences	0	1	0	0	**1**
Total	**62**	**22**	**88**	**89**	261
2010–2011					
Administrative	164	3	126**	3	**296**
Refusals	7	11	51**	137	**206**
Cabinet confidences	0	0	0	0	**0**
Total	**171**	**14**	**177**	**140**	502

This table sets out the number and outcome of the complaints the Office of the Information Commissioner (OIC) registered against the Canada Revenue Agency (CRA) in the three fiscal years starting in 2008–2009. In 2010–2011, the number of administrative complaints more than doubled from the 2008–2009 level, to 296. A large majority of these complaints (86 percent) pertained to deemed refusals; however, 103 of these were discontinued. The OIC also registered 105 exemption complaints (refusals) against CRA in 2010–2011, 91 of which were pending at the time of writing.

*   Resolved complaints are those that the OIC finds to have merit and that the institution resolves to the Commissioner's satisfaction.

** The OIC began using new disposition categories in 2010–2011. That year, there were four complaints (three miscellaneous and one refusal) in the new Settled category, which comprises complaints about minor errors, settled to the Commissioner's satisfaction without a finding. For reporting purposes, these complaints were placed in the Discontinued category.

4. Despite CRA's decision to focus on its backlog, the OIC is very concerned that the deemed refusal rate reached the level it did (33.5 percent). This is the exact opposite result to the one the OIC expected when it issued its 2008–2009 recommendation on CRA's then 15.1-percent deemed refusal rate, although the OIC recognizes the operational pressures CRA was working under during 2010–2011. CRA reported that as measures to eliminate the backlog, increase information disclosure and make its processes more efficient take effect, its deemed refusal rate is slowly decreasing.

5. Past challenges in reporting extensions of more than 30 days to the OIC seem to be on the way to being resolved. The OIC received 84 percent of the required notices (although CRA reported that it had sent more). This is just one percentage point short of the 85-percent standard for acceptable performance in this area.

2010–2011 recommendations

The OIC is re-issuing the 2008–2009 recommendations about the CRA's deemed refusal rate and delegation order. The

recommendation about the extension notices, however, is not being issued as the CRA came within one percentage point of compliance, and the OIC is mindful of significant other pressures affecting the CRA. There are two new recommendations, intended to prompt CRA to take measures that, if successful, would lead to a decrease in its complaint and request volumes.

1. The Office of the Information Commissioner recommends that the Canada Revenue Agency reduce its deemed refusal rate to zero.

   RESPONSE: *The CRA agrees with this recommendation and will continue to strive to reduce its deemed refusal rate as much as possible. Towards this end, the CRA has developed a robust improvement plan, and has allocated considerable resources towards its implementation. As indicated in this report card, the CRA made significant progress eliminating its backlog in 2010–2011. This progress continued in 2011–2012, during which time the backlog inventory was completely eliminated. Elimination of this aged inventory is expected to make the CRA's access to information (ATI) operations sustainable, and improve its*

performance over the longer term. Eliminating this backlog inventory is also expected to reduce the CRA's deemed refusal rate over time. Indeed, the CRA's 2011–2012 deemed refusal rate is projected to be less than that of 2010–2011.

It should be noted, however, that the CRA continues to face operational challenges, including those related to increasing requests and page volumes, particularly as they relate to bulk requesters—two of whom accounted for one third of the CRA's ATI inventory in 2010–2011. Within this context, the CRA will strive to reduce its deemed refusal rate as far as possible. Continued monitoring of performance against targets will support achievement of this goal.

2. The Office of the Information Commissioner recommends that the Minister of National Revenue further amend the delegation order to ensure greater autonomy of the access to information coordinator.

RESPONSE: *The CRA accepts this recommendation, but asserts that it has already taken steps to ensure autonomy of its access to information coordinator. In response to the OIC's 2008–2009 report card recommendation, the CRA removed delegations assigned to deputy assistant commissioners and expanded delegations to managers with the Access to Information and Privacy Directorate. These measures served to expedite the processing of requests. The CRA chose not to remove assistant commissioner delegations at this time, because the complexity of some ATI requests within the CRA necessitates a strong consultative relationship between records holders and the access to information authority, which the current delegation order provides. Moreover, internal reviews of the CRA approval process have provided no evidence that delegation of authority to assistant commissioners creates delay. Within this context, however, the CRA will once again consider the necessity of amending its delegation order to ensure autonomy of its access to information coordinator.*

3. The Office of the Information Commissioner recommends that the Canada Revenue Agency explore proactive disclosure measures that would eliminate the need for common and recurring access to information requests.

RESPONSE: *The CRA agrees with this recommendation and has already initiated actions to expand proactive disclosure through internal training and communications, and by posting the summary lines of completed ATI requests on its website. It should be noted, however, that the majority of access requests received by the CRA are taxpayer-related and cannot be addressed through proactive means.*

In 2012–2013, the CRA will continue to promote proactive disclosure by increasing the number of documents available

on the CRA website and through its virtual reading room project. Towards this end, the Public Affairs Branch will engage with the senior management of each branch and region to discern where additional proactive disclosure mechanisms could be invoked. Special effort will be directed to those areas of the CRA where proactive disclosure mechanisms could potentially be expanded.

As well, in 2012–2013, the Public Affairs Branch will identify areas where additional training of personnel is required to maximize their understanding and application of informal disclosure mechanisms. Particular attention will be directed to those areas of the CRA that receive the most requests and/or where informal disclosure mechanisms could be used more effectively.

4. The Office of the Information Commissioner recommends that the Canada Revenue Agency process all records properly, specifying the precise part to which each exemption or exclusion applies at the point when they are being invoked.

RESPONSE: *The CRA agrees with this recommendation and has already taken steps to ensure that sufficient explanation is provided when exemptions and exclusions are invoked. As the OIC states in this assessment, the CRA has already committed to providing strengthened justifications within its ATI files. However, the CRA contends that, notwithstanding the cases already discussed with OIC, this is already a general practice within the CRA.*

In 2012–2013, the CRA will invoke additional measures to ensure strong explanations are included when applying exemptions and exclusions. An updated redaction system, which will be launched in May 2012, will not allow exemptions or exclusions to be applied unless accompanied by a justification. Manuals are also being updated so analysts are provided with better guidance on how to document use of exclusions and exemptions, and this documentation will be supplemented with internal training.

5. The Office of the Information Commissioner recommends that the Canada Revenue Agency report on its progress implementing these recommendations in its annual report to Parliament on access to information operations.

RESPONSE: *The CRA fully agrees with this recommendation. Each year, the CRA tables its Annual Report to Parliament on the Administration of the Access to Information Act in order to provide an overview of progress and challenges faced during the fiscal year. The CRA will ensure the annual report provides an update on progress made against OIC recommendations.*

Canadian Food Inspection Agency

The Canadian Food Inspection Agency (CFIA) provides inspection services and regulatory oversight for food production, and plant and animal health products, and delivers consumer protection programs relating to the food system in Canada. CFIA enforces Health Canada policies and standards governing the safety and nutritional quality of all food sold in Canada and verifies industry compliance with federal acts and regulations.

Assessment
(Received a D in 2008–2009)

- CFIA performed poorly in 2010–2011. Its deemed refusal rate was 48.3 percent and the average time to complete a request was 188 days.

- CFIA started the year with a large carry-over of requests and a growing volume of pages to review. It also focused much of its effort on implementing a multi-year plan for long-term improvement of access to information operations, and reducing its backlog. CFIA has made progress on both fronts.

- Given CFIA's poor performance in 2010–2011 and that it did not respond satisfactorily to three out of the Office of the Information Commissioner's (OIC) four 2008–2009 recommendations, the OIC is issuing recommendations in these areas as well as others to prompt improvement at the institution (see page 37).

QUICK FACTS	2008–2009	2010–2011
Number of requests carried over from previous fiscal year	56	**208**
Number of new requests	472	**351**
Number of requests completed	327	**424**
Number of pages reviewed for requests completed	45,651	**146,885**
Deemed refusal rate	35.8%*	**48.3%***
Average number of days to complete a request	50	**188**
Average number of days to complete a request received in 2010–2011	n/a	**84**
Number of consultation requests received	74	**77**
Percentage of required extension notices submitted to the OIC	<85%	**<85%**
Number of complaints registered with the OIC	12	**17**
Number of complaints the OIC resolved	5**	**4***
Number of full-time equivalents in access to information operations, as of the end of the fiscal year	6	**8.13**

FOLLOW-UP ON 2008–2009 RECOMMENDATIONS

Resources.. Met expectations

Improvement plan/backlog ....Did not meet expectations

Deemed refusal rate..................................Did not meet expectations

Extension notices......................................Did not meet expectations

See report card text for details. For the full text of the recommendations, as well as the institution's initial response and October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_2.aspx.

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* Percentage of carried over and new requests delayed beyond the deadlines (30 days and extended) set out in the *Access to Information Act*. (See Appendix B for the formula the OIC used to calculate this rate.)

** A complaint is resolved when the OIC finds it has merit and the institution resolves it to the Commissioner's satisfaction. The number of complaints reported reflects complaints resolved as of November 2011. As a result, the figure for 2008–2009 may differ from what appeared in the 2008–2009 report card.

Report card

The Canadian Food Inspection Agency (CFIA) performed poorly in 2010–2011. Its deemed refusal rate was 48.3 percent, and the average time to complete a request was 188 days. This is of concern, since CFIA received 26 percent fewer new requests than in 2008–2009, and there were two additional people on staff to process requests.

CFIA started 2010–2011 with 208 requests having been carried over from the previous year. This was roughly four times the carry-over into 2008–2009. The number of pages analysts had to review for they requests they completed more than tripled. Beyond tackling this extra workload on top of new requests, CFIA concentrated its efforts in 2010–2011 on, first, developing a plan for long-term improvement of access to information operations and, second, clearing its backlog of long-standing requests.

With regard to the former, CFIA developed a detailed process modernization plan that is slated for implementation by April 2012. The institution estimates it will take three to five years for the results of this improvement effort to be fully manifest.

The plan acknowledges the need to address "existing and engrained misconceptions," and tasks executives to be "change agents" to this end. Leadership efforts will be bolstered by new specialized functions within the program areas and training at all levels. Also of note is that the manager of the access to information office now reports directly to CFIA's Chief Redress Officer, who in turn reports to the President.

As part of the plan, CFIA will once again update its delegation order, this time to include the executive vice-president responsible for access to information, as well as the Chief Food Safety Officer. The move is reported to attempt to alleviate situations in which the access to information coordinator must broker disagreements between senior officials in program areas about releasing records. The Office of the Information Commissioner (OIC) is concerned that adding new levels of review—particularly at the executive level—will result in delays, given senior officials' workload and competing priorities. It is the OIC's observation that the most successful access to information operations have strong leadership from the very top of the organization. While it is necessary to bring accountability to the executive level, the OIC does not concur with adding executive positions to the delegation order.

One of CFIA's most pressing issues in 2010–2011 was its backlog, which included files from as far back as 2007 and requests pertaining to Canada's listeriosis outbreak in 2008. While CFIA has made progress reducing the number of these files (103 out of the 424 files it completed in 2010–2011 were from the backlog) with the infusion of financial resources to hire consultants, there is a new backlog being created (due to the size of the carry-over of requests from 2009–2010), which is of concern to the OIC. CFIA estimates that it will have spent $2 million to clear its backlog once it is completely eradicated in April 2012.

CFIA reported that information management has improved since the OIC pointed it out as a concern in the 2008–2009 report card. On the other hand, access officials said that employees are now unnecessarily saving multiple versions of every document into RDIMS, CFIA's centrally organized document storage system, to preserve a record of even minor editorial changes rather than just the significant amendments or records of decisions.

CFIA continues to take a large number of time extensions for third-party consultations: 143 for more than 30 days during 2010–2011.

Follow-up on the 2008–2009 recommendations

The OIC issued four recommendations to CFIA with the 2008–2009 report card. The following summarizes the subsequent developments at the institution in response. (For the full text of the recommendations, the institution's response and its October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_2.aspx.)

1. The OIC recommended that CFIA allocate more permanent resources to access to information operations. CFIA's annual report to Treasury Board Secretariat on access indicates that there were 8.13 full-time equivalents in the access office during 2010–2011 (up from 6 in 2008–2009), but during the report card interview, the coordinator reported a current staff level of 12, with a target of 15. This is consistent with a consultant's recommendation for 15–16 staff to manage its workload.

   CFIA also invested in new high-speed redaction equipment and new processing software to expedite access functions.

2. CFIA has continued to implement its multi-year action plan for improvement, including reducing its backlog, along the lines the OIC noted in its 2008–2009 recommendation. The plan will be fully implemented by April 2012 and has not yet shown sufficient results.

3. Despite the OIC's recommendation to CFIA to bring its deemed refusal rate down, the rate actually rose in 2010–2011, compared to 2008–2009, while analysts focused on the backlog, which included some very old files. The fact that the majority of the late requests were then completed within 30 days mitigates the OIC's usual concern about overdue requests tending to languish because they are already counted as late.

Access to information workload, 2008–2009 to 2010–2011

This graph shows the sources of the Canadian Food Inspection Agency's workload for the three fiscal years starting in 2008–2009. Comparing 2008–2009 to 2010–2011, the institution saw a 6-percent increase in its workload, and the composition changed considerably. The number of new requests decreased by 26 percent but the number of requests carried over from the previous fiscal year nearly quadrupled. In addition, the number of pages reviewed for requests completed more than tripled.
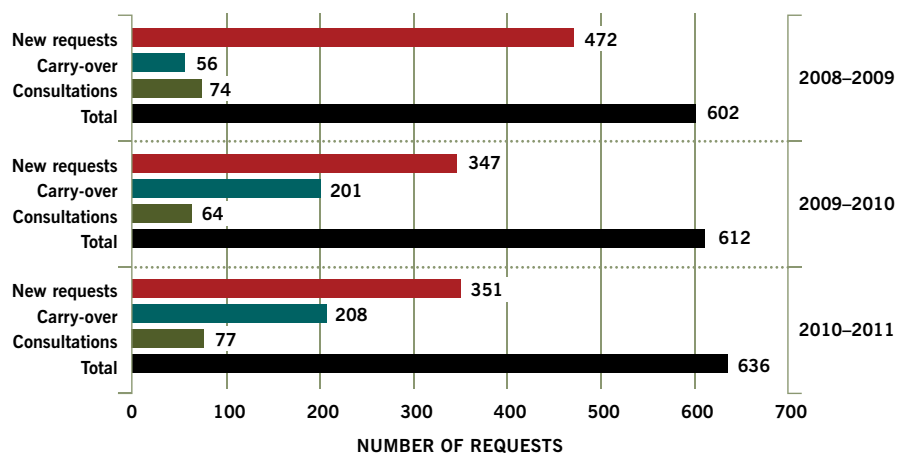
How long it took to complete new requests, 2008–2009 and 2010–2011

Between 2008–2009 and 2010–2011, the proportion of new access requests the Canadian Food Inspection Agency (CFIA) completed within the timelines (30 days and extended) set out in the *Access to Information Act* increased from 73 percent to 81 percent. CFIA completed the remaining requests after their due date, but the number of these overdue requests dropped from 77 in 2008–2009 to 46 in 2010–2011. CFIA also completed the overdue requests more quickly, finishing 63 percent of them within 30 days after the deadline in 2010–2011, compared to 53 percent in 2008–2009.
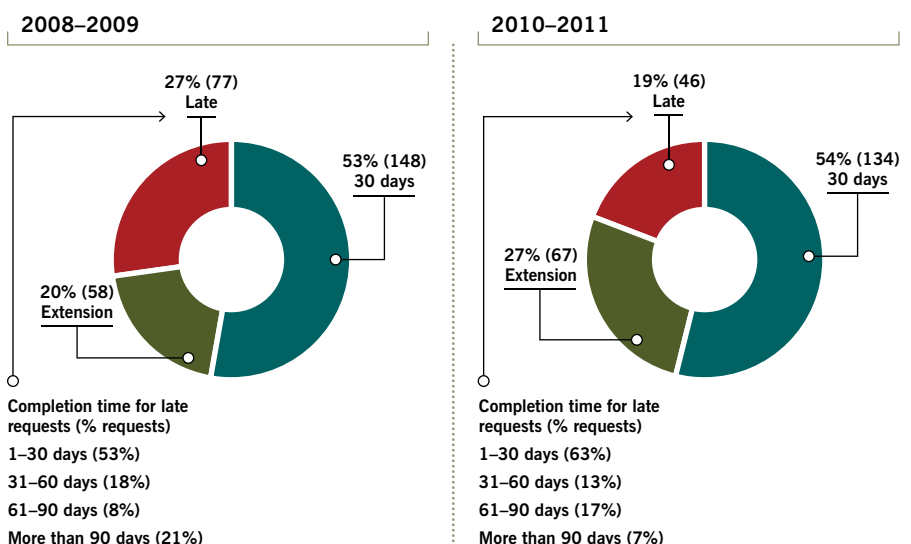
2008–2009

27% (77) Late

53% (148) 30 days

20% (58) Extension

Completion time for late requests (% requests)
1–30 days (53%)
31–60 days (18%)
61–90 days (8%)
More than 90 days (21%)

2010–2011

19% (46) Late

54% (134) 30 days

27% (67) Extension

Completion time for late requests (% requests)
1–30 days (63%)
31–60 days (13%)
61–90 days (17%)
More than 90 days (7%)

Number and length of time extensions taken, 2008–2009 and 2010–2011

This graph shows the number and length of the time extensions the Canadian Food Inspection Agency (CFIA) reported to have taken in 2008–2009 and 2010–2011. The institution supplied this information in the notices it sent to the Office of the Information Commissioner (OIC) under subsection 9(2) of the *Access to Information Act*. CFIA submitted fewer than 85 percent of the required notices in 2008–2009, at which point the OIC issued a recommendation that CFIA improve its performance in this area. While the institution did submit more notices in 2010–2011, it did not meet the OIC's 85-percent standard for acceptable performance.

2008–2009
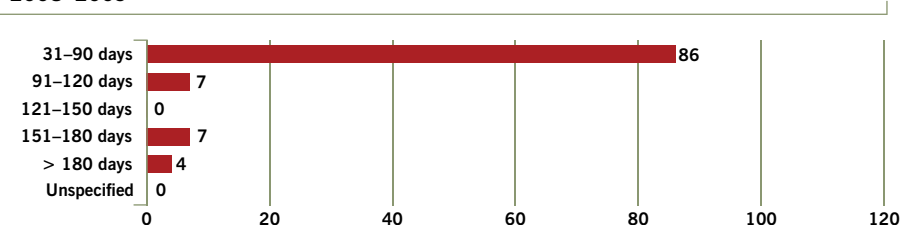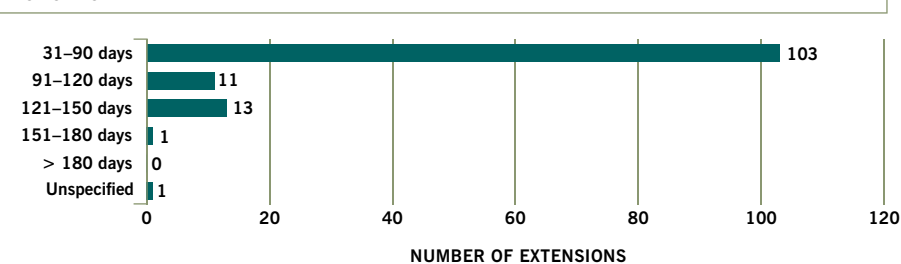
Length	Number
31–90 days	86
91–120 days	7
121–150 days	0
151–180 days	7
> 180 days	4
Unspecified	0

2010–2011

Length	Number
31–90 days	103
91–120 days	11
121–150 days	13
151–180 days	1
> 180 days	0
Unspecified	1

NUMBER OF EXTENSIONS

Number and outcome of delay-related complaints, 2008–2009 to 2010–2011

These graphs show the number and outcome of two types of complaint registered against the Canadian Food Inspection Agency (CFIA) in the three fiscal years starting in 2008–2009: complaints about deemed refusals (access to information requests that CFIA delayed beyond the deadlines—30 days and extended—set out in the *Access to Information Act*) and complaints about CFIA's use of the time extensions allowed under the Act. The number of both types of complaint has decreased since 2008–2009. In fact, the Office of the Information Commissioner received no time extension complaints against CFIA in 2010–2011.

Deemed refusal complaints
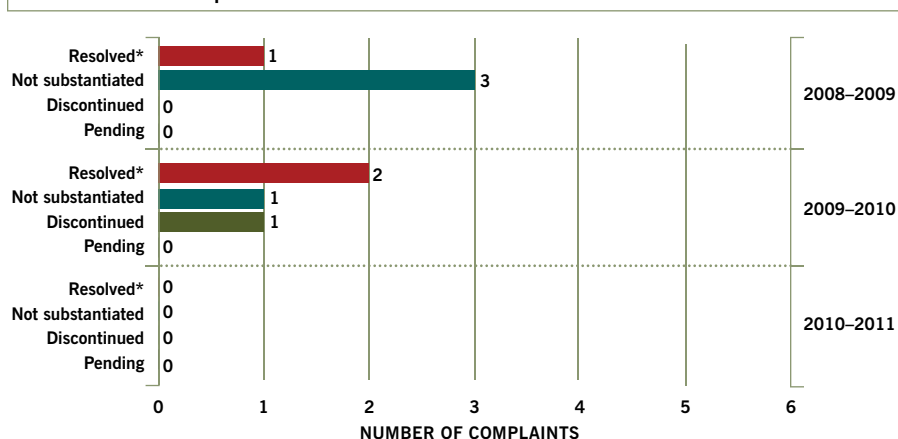
Outcome	2008–2009	2009–2010	2010–2011
Resolved*	3	5	2
Not substantiated	0	0	0
Discontinued	3	1	2
Pending	0	0	0

Time extension complaints

Outcome	2008–2009	2009–2010	2010–2011
Resolved*	1	2	0
Not substantiated	3	1	0
Discontinued	0	1	0
Pending	0	0	0

NUMBER OF COMPLAINTS

* Resolved complaints are those that the Office of the Information Commissioner finds to have merit and that the institution resolves to the Commissioner's satisfaction.

Number and outcome of complaints received by the Office of the Information Commissioner, 2008–2009 to 2010–2011

	RESOLVED*	NOT SUBSTANTIATED	DISCONTINUED	PENDING	TOTAL
2008–2009					
Administrative	4	3	3	0	**10**
Refusals	1	0	0	1	**2**
Cabinet confidences	0	0	0	0	**0**
Total	**5**	**3**	**3**	**1**	**12**
2009–2010					
Administrative	9	1	4	0	**14**
Refusals	2	1	1	2	**6**
Cabinet confidences	0	0	0	0	**0**
Total	**11**	**2**	**5**	**2**	**20**
2010–2011					
Administrative	3	1	2	0	**6**
Refusals	1	0	2	8	**11**
Cabinet confidences	0	0	0	0	**0**
Total	**4**	**1**	**4**	**8**	**17**

This table sets out the number and outcome of the complaints the Office of the Information Commissioner (OIC) registered against the Canadian Food Inspection Agency (CFIA) in the three fiscal years starting in 2008–2009. CFIA has been the subject of between 10 and 20 complaints in each of those years; however, the OIC registered a larger number of refusal complaints in 2010–2011 than previously.

* Resolved complaints are those that the OIC finds to have merit and that the institution resolves to the Commissioner's satisfaction.

4. In response to the OIC's recommendation, CFIA changed its process to ensure it notified the OIC of all extensions it took for more than 30 days. However, again, it submitted fewer than 85 percent of the required notices, which does not meet the OIC's standard for acceptable performance in this area.

2010–2011 recommendations

Given CFIA's poor performance in 2010–2011 and that it did not respond satisfactorily to three out of the OIC's four 2008–2009 recommendations, the OIC is issuing recommendations in these areas as well as others to prompt improvement at the institution.

1. The Office of the Information Commissioner recommends that the Minister of Agriculture and Agri-Food and the President of the Canadian Food Inspection Agency take a strong leadership role in establishing a culture of compliance throughout the institution.

RESPONSE: *Agreed. The CFIA is moving forward on a service-centred agenda focused on improving service delivery as an open, transparent and visibly accountable regulatory agency. This includes the ATIP Modernization initiative aimed at increasing accountability with Agency management and focusing on service delivery of information to the public.*

The CFIA posts summaries of closed access to information requests on its website in line with Treasury Board Secretariat policy, to facilitate the informal disclosure of information to the public.

Weekly meetings with the Minister's Office take place to keep the Minister informed of the CFIA's progress on completing access to information requests.

The reporting structure for the ATIP program at the CFIA has changed. The ATIP Coordinator now reports to the Chief Redress Officer for the Agency who reports directly to the President.

2. The Office of the Information Commissioner recommends that the Canadian Food Inspection Agency's senior management team monitor the actions taken under its multi-year improvement plan to ensure they generate results.

RESPONSE: *Agreed. The CFIA Senior Management Committee receives monthly updates on ATIP completion rates and process improvements and Branch Heads are actively engaged when there are concerns or delays in the process.*

The CFIA senior management is also engaged more actively in the beginning of the ATIP process, as it is now required to approve packages before they are sent to the ATIP Office, creating more ownership of files.

3. The Office of the Information Commissioner recommends that access to information performance be integrated into the performance management agreements of all senior management positions responsible for the access program at the Canadian Food Inspection Agency.

RESPONSE: *Agreed. ATIP performance will be included in performance management agreements for all Senior Management Committee members starting in 2012–2013.*

Dedicated ATIP Advisor positions in each of the core Branches have been established, who report directly to their respective Branch Head on Branch-related ATIP issues and activities.

4. The Office of the Information Commissioner recommends that the Canadian Food Inspection Agency provide training to all staff on the access to information function.

RESPONSE: *Agreed. The CFIA has significantly increased training on access to information since the OIC's initial report card for the 2008–2009 fiscal year. The Agency trained approximately 1,000 employees during the 2010–2011 fiscal year, which is an increase of 93% over the 2008–2009 fiscal year, where only 75 employees were trained.*

5. The Office of the Information Commissioner recommends that the Canadian Food Inspection Agency manage its workload so that it does not create a new backlog while it completes the long-standing requests in its inventory.

RESPONSE: *Agreed. The CFIA has made significant strides in managing its workload and has eliminated its backlog of late requests with the help of expert consultants. The CFIA is now focused on managing its workload without the use of expert consultants by integrating new internal control processes and engaging senior management.*

The ATIP Office meets weekly with Branch ATIP Advisors to discuss procedures with the goal of improving compliance. Any delays in the processing of requests

are flagged to the appropriate Branch Head for immediate attention. Monthly updates are provided to the CFIA Senior Management Committee.

6. The Office of the Information Commissioner recommends that the Canadian Food Inspection Agency reduce its deemed refusal rate to zero.

RESPONSE: *Agreed. As previously mentioned, the CFIA has eliminated its backlog of late requests and increased management oversight. Additional process improvements such as internal control procedures and training of staff on the legislative requirements of the* Access to Information Act *continue.*

7. The Office of the Information Commissioner recommends that the Canadian Food Inspection Agency maintain the configuration of its current delegation order rather than adding two new levels of senior management.

RESPONSE: *Agreed. The delegation order has been revised to reflect the change of President.*

The CFIA has adopted a new Agency process whereby routine requests are signed off by the ATIP Coordinator and complex ones by the Chief Redress Officer. This streamlining of sign-off provides for greater oversight by senior management in the process.

8. The Office of the Information Commissioner recommends that the Canadian Food Inspection Agency comply with the Act and notify the Office of the Information Commissioner of all the extensions it takes for more than 30 days.

RESPONSE: *Agreed. Notifying the OIC when an extension is taken of more than 30 days is part of the CFIA's procedures. Further training and guidance is being provided to staff to ensure consistent compliance with this requirement.*

9. The Office of the Information Commissioner recommends that the Canadian Food Inspection Agency report on its progress on and results of implementing its improvement plan and these recommendations in its annual report to Parliament on access to information operations.

RESPONSE: *Agreed. The CFIA will continue to report on its progress and results on program improvements and the OIC's recommendations in its Annual Report to Parliament on access to information operations.*

Canadian Heritage

Canadian Heritage is responsible for national policies and programs that promote Canadian content, foster cultural participation, active citizenship and participation in Canada's civic life, and strengthen connections among Canadians.

Assessment
(Received an F in 2008–2009)

D

- Canadian Heritage performed well in many regards in 2010–2011, with no files completed late from its current requests. However, its backlogged inventory kept its deemed refusal rate high, at 28.7 percent. The number of complaints registered with the Office of the Information Commissioner (OIC) against Canadian Heritage fell by 44 percent from the 2008–2009 level. The institution also streamlined its access review process.

- A failing grade in 2008–2009 brought attention to the access to information program at Canadian Heritage and set changes in motion. Canadian Heritage subsequently doubled its full-time staff, and began carefully monitoring internal deadlines.

- Canadian Heritage satisfactorily implemented all five of the OIC's 2008–2009 recommendations. The OIC is issuing four recommendations to prompt further performance improvement in the coming years (see page 43).

QUICK FACTS	2008–2009	2010–2011
Number of requests carried over from previous fiscal year	93	**137**
Number of new requests	294	**253**
Number of requests completed	239	**296**
Number of pages reviewed for requests completed	31,033	**45,547**
Deemed refusal rate	40.8%*	**28.7%***
Average number of days to complete a request	107	**185**
Average number of days to complete a request received in 2010–2011	n/a	**36**
Number of consultation requests received	106	**110**
Percentage of required extension notices submitted to the OIC	<85%	**>85%**
Number of complaints registered with the OIC	25	**14**
Number of complaints the OIC resolved	14**	**2***
Number of full-time equivalents in access to information operations, as of the end of the fiscal year	5.4	**10.2**

FOLLOW-UP ON 2008–2009 RECOMMENDATIONS

Delegation order... Met expectations

Resources.. Met expectations

Backlog .... Met expectations

Training .... Met expectations

Extension notices... Met expectations

See report card text for details. For the full text of the recommendations, as well as the institution's initial response and October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_3.aspx.

* Percentage of carried over and new requests delayed beyond the deadlines (30 days and extended) set out in the *Access to Information Act*. (See Appendix B for the formula the OIC used to calculate this rate.)

** A complaint is resolved when the OIC finds it has merit and the institution resolves it to the Commissioner's satisfaction. The number of complaints reported reflects complaints resolved as of November 2011. As a result, the figure for 2008–2009 may differ from what appeared in the 2008–2009 report card.

Report card

Canadian Heritage performed well in many regards in 2010–2011, with no files completed late from its current requests. However, its backlogged inventory kept its deemed refusal rate high, at 28.7 percent. The number of complaints registered with the Office of the Information Commissioner (OIC) against Canadian Heritage fell by 44 percent from 2008–2009. The institution also made some progress reducing its backlog of long-standing requests, which drove its average completion time up to 185 days. However, excluding the backlogged files, the average completion time for requests received and completed in 2010–2011 was a commendable 36 days. The institution also reported that streamlining the review process and monitoring internal deadlines have both proved to be successful strategies.

A failing grade on the 2008–2009 report card brought management attention to access to information operations and set changes in motion. Notably, Canadian Heritage nearly doubled its staff from 5.4 to 10.2 full-time equivalents. The access to information coordinator determined the number of employees the office requires by analyzing the number of requests coming in and their complexity, and estimating how many files each analyst can realistically manage. A business case was prepared using this equation, which resulted in the office receiving the necessary resources and has greatly improved the institution's ability to comply with the access legislation. An increase in knowledgeable and experienced staff has also meant that the unit has been able to be more proactive in clarifying requests with requesters and working with program areas to retrieve relevant records.

This equation does not, however, account for policy and other auxiliary access to information activities, such as statistical reporting, policy development and training, since Canadian Heritage's primary focus is processing requests. Nonetheless, one full-time resource managed to train 549 employees during 2010–2011, slightly more than 25 percent of all staff. This included regional training as well as customized training for specific program areas.

In addition to human resources, Canadian Heritage also invested in updated technology, allowing for an integrated approach to processing requests.

Canadian Heritage made changes suggested by the OIC with respect to its review process. Previously there was a multi-step process whereby one copy of the proposed disclosure package circulated to all senior management prior to release. Now, program areas whose records are the subject of the request have three days prior to the information being released to review the package. With fewer recipients and a streamlined process, the final stages of processing an access to information package have been simplified and therefore expedited. This process is compliant with the delegation order at Canadian Heritage.

To demonstrate its commitment to the legislation, Canadian Heritage has included access to information performance in executive performance agreements. The access coordinator reported that deadlines are now more well respected throughout the institution.

Follow-up on 2008–2009 recommendations

The OIC issued five recommendations to Canadian Heritage with the 2008–2009 report card. The following summarizes the subsequent developments at the institution in response. (For the full text of the recommendations, the institution's 2008–2009 response and its October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_3.aspx.)

1. By streamlining the review process, Canadian Heritage has ensured that it is not delaying the release of information and adheres to the delegation order, as per the OIC's recommendation.

2. The OIC commends Canadian Heritage for allocating the resources necessary to improve its performance, as recommended. Since receiving the 2008–2009 report card, Canadian Heritage has nearly doubled its staff and invested in new technology to facilitate the processing of requests.

3. Canadian Heritage made inroads towards eliminating its backlog of long-standing requests, but more work can be done.

4. Canadian Heritage developed a training plan, in response to the OIC's recommendation, and provided training to more than 25 percent of employees across the institution.

5. The OIC recommended that Canadian Heritage improve its procedures to ensure it submits all the required notices of extensions of more than 30 days. Canadian Heritage met the OIC's 85-percent standard for acceptable performance in this area in 2010–2011.

Access to information workload, 2008–2009 to 2010–2011

This graph shows the sources of Canadian Heritage's workload for the three fiscal years starting in 2008–2009. Comparing 2008–2009 to 2010–2011, the institution's overall workload was essentially the same but the composition changed. Canadian Heritage received 14 percent fewer new requests but carried over 47 percent more requests from the previous fiscal year. The number of pages reviewed for requests completed increased by 47 percent.
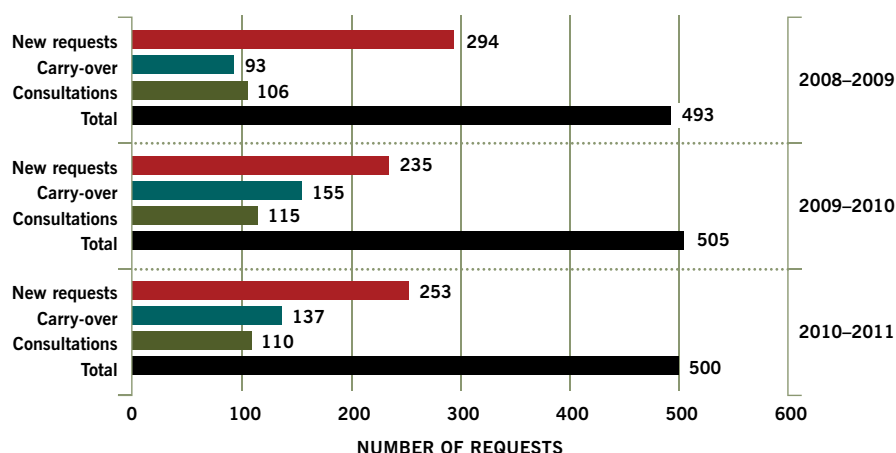
	2008–2009
New requests	294
Carry-over	93
Consultations	106
Total	493

	2009–2010
New requests	235
Carry-over	155
Consultations	115
Total	505

	2010–2011
New requests	253
Carry-over	137
Consultations	110
Total	500

NUMBER OF REQUESTS

How long it took to complete new requests, 2008–2009 and 2010–2011

Between 2008–2009 and 2010–2011, the proportion of new access requests Canadian Heritage completed within the timelines (30 days and extended) set out in the *Access to Information Act* increased from 75 percent (with 57 overdue requests) to 100 percent (and no overdue requests). However, Canadian Heritage did take extensions for a greater proportion of its requests in 2010–2011 (22 percent) than in 2008–2009 (4 percent).
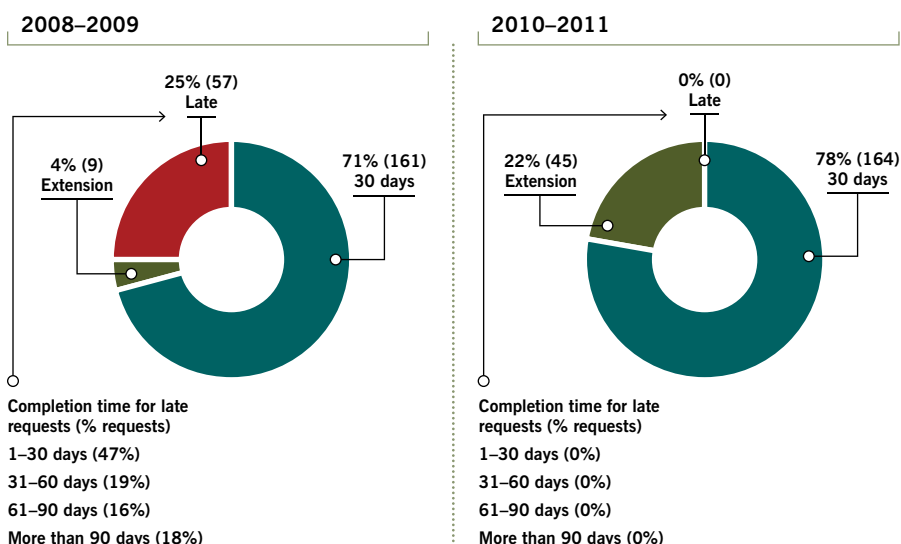
2008–2009

25% (57) Late
4% (9) Extension
71% (161) 30 days

Completion time for late requests (% requests)
1–30 days (47%)
31–60 days (19%)
61–90 days (16%)
More than 90 days (18%)

2010–2011

0% (0) Late
22% (45) Extension
78% (164) 30 days

Completion time for late requests (% requests)
1–30 days (0%)
31–60 days (0%)
61–90 days (0%)
More than 90 days (0%)

Number and length of time extensions taken, 2008–2009 and 2010–2011

This graph shows the number and length of the time extensions Canadian Heritage reported to have taken in 2008–2009 and 2010–2011. The institution supplied this information in the notices it sent to the Office of the Information Commissioner (OIC) under subsection 9(2) of the *Access to Information Act*. Canadian Heritage submitted fewer than 85 percent of the required notices in 2008–2009, at which point the OIC issued a recommendation that Canadian Heritage improve its performance in this area. In 2010–2011, Canadian Heritage submitted more than 85 percent of the required notices. The OIC notes the increase in the number of extensions Canadian Heritage took in 2010–2011 for more than 120 days.

2008–2009
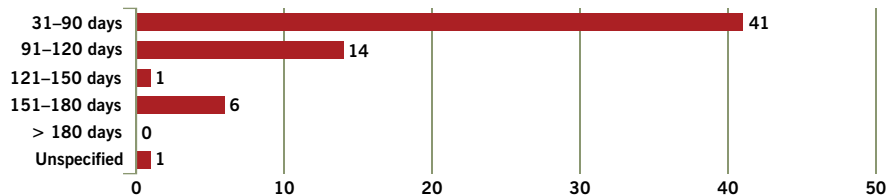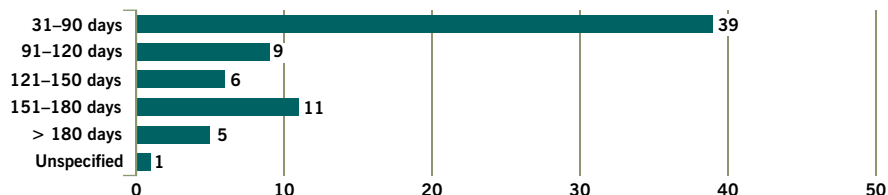
Length	Number
31–90 days	41
91–120 days	14
121–150 days	1
151–180 days	6
> 180 days	0
Unspecified	1

2010–2011

Length	Number
31–90 days	39
91–120 days	9
121–150 days	6
151–180 days	11
> 180 days	5
Unspecified	1

NUMBER OF EXTENSIONS

Number and outcome of delay-related complaints, 2008–2009 to 2010–2011

These graphs show the number and outcome of two types of complaint registered against Canadian Heritage in the three fiscal years starting in 2008–2009: complaints about deemed refusals (access to information requests that Canadian Heritage delayed beyond the deadlines—30 days and extended—set out in the *Access to Information Act*) and complaints about Canadian Heritage's use of the time extensions allowed under the Act. Overall, Canadian Heritage was the subject of 44 percent fewer complaints in 2010–2011 compared to 2008–2009, including fewer deemed refusal and time extension complaints.

Deemed refusal complaints

Resolved*	11	**2008–2009**
Not substantiated	0	
Discontinued	1	
Pending	0	
Resolved*	5	**2009–2010**
Not substantiated	0	
Discontinued	0	
Pending	0	
Resolved*	1	**2010–2011**
Not substantiated	0	
Discontinued	0	
Pending	0	

Time extension complaints

Resolved*	3	**2008–2009**
Not substantiated	2	
Discontinued	4	
Pending	0	
Resolved*	0	**2009–2010**
Not substantiated	4	
Discontinued	0	
Pending	0	
Resolved*	0	**2010–2011**
Not substantiated	1	
Discontinued	1	
Pending	0	

NUMBER OF COMPLAINTS
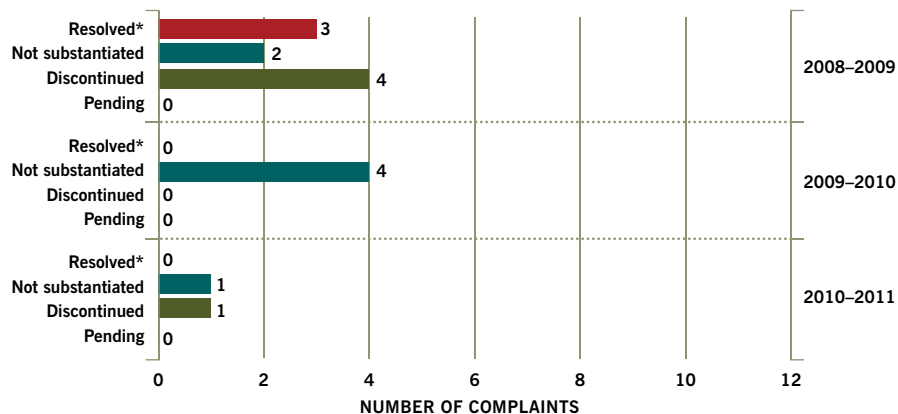
* Resolved complaints are those that the Office of the Information Commissioner finds to have merit and that the institution resolves to the Commissioner's satisfaction.

Number and outcome of complaints received by the Office of the Information Commissioner, 2008–2009 to 2010–2011

	RESOLVED*	NOT SUBSTANTIATED	DISCONTINUED	PENDING	TOTAL
2008–2009					
Administrative	14	2	5	0	**21**
Refusals	0	1	2	1	**4**
Cabinet confidences	0	0	0	0	**0**
Total	**14**	**3**	**7**	**1**	**25**
2009–2010					
Administrative	6	4	0	0	**10**
Refusals	2	0	3	3	**8**
Cabinet confidences	0	1	0	0	**1**
Total	**8**	**5**	**3**	**3**	**19**
2010–2011					
Administrative	2	1	1	1	**5**
Refusals	0	1	0	4	**5**
Cabinet confidences	0	2	0	2	**4**
Total	**2**	**4**	**1**	**7**	**14**

This table sets out the number and outcome of the complaints the Office of the Information Commissioner (OIC) registered against Canadian Heritage in the three fiscal years starting in 2008–2009. The number of complaints against Canadian Heritage was 44 percent lower in 2010–2011 than in 2008–2009. Half of the complaints registered in 2010–2011 are pending, while 36 percent were found to be not substantiated or were discontinued.

* Resolved complaints are those that the OIC finds to have merit and that the institution resolves to the Commissioner's satisfaction.

2010–2011 recommendations

Canadian Heritage's overall performance got better in 2010–2011, but there is still room for improvement. The OIC is issuing four recommendations to prompt the institution in this regard in the coming years.

1. The Office of the Information Commissioner recommends that Canadian Heritage reduce its deemed refusal rate to zero.

   RESPONSE: *Canadian Heritage continues to adhere to the legislation and makes every effort to complete its access to information requests within the statutory time frames. In fiscal year 2010–2011 Canadian Heritage completed all its new requests on time. The Department is committed to completing the outstanding backlog requests.*

2. The Office of the Information Commissioner recommends that Canadian Heritage review and document the criteria it uses for extensions to ensure that they are reasonable and legitimate.

   RESPONSE: *The use of time extensions is documented in the Canadian Heritage access to information procedure manual, which is continuously reviewed and updated. Canadian Heritage takes time extensions to process access to information requests only when required and legitimate. As noted in this report, Canadian Heritage has received very few extension complaints and the outcome of complaints for 2009–2010 and 2010–2011 revealed that none of the extension complaints were considered to have merit.*

3. The Office of the Information Commissioner recommends that Canadian Heritage continue with its plan to eliminate its backlog of access requests.

   RESPONSE: *During fiscal year 2010–2011, besides completing all requests that were received within the*

fiscal year within the time limits, Canadian Heritage has made significant progress in dealing with the backlog, completing 87 of the 137 requests that were carried over into that fiscal year. Work continues on the outstanding files.

4. The Office of the Information Commissioner recommends that Canadian Heritage report on its progress implementing these recommendations in its annual report to Parliament on access to information operations.

RESPONSE: *Canadian Heritage continues to fully report on its access to information activities in its annual report to Parliament.*

Canadian International Development Agency

The Canadian International Development Agency (CIDA) delivers Canada's official development assistance around the world, working to reduce poverty, promote human rights and support sustainable development.

Assessment
(Received an F in 2008–2009)

B

- CIDA turned in a very good performance in 2010–2011, despite a growing workload. The deemed refusal rate was 8.2 percent. The average time to complete a request fell from previous levels, despite CIDA's clearing its backlog of long-standing requests. In addition, the Office of the Information Commissioner (OIC) registered only four complaints against CIDA in 2010–2011.

- CIDA reports that its success was the result of receiving the resources it needed to secure consultants, establishing clear communication within the access to information team, implementing new procedures and creating a procedures manual, and providing extensive training to CIDA employees.

- CIDA satisfactorily implemented all six of the OIC's 2008–2009 recommendations. However, the OIC is concerned about CIDA's practice of closing files with outstanding consultations and has issued a recommendation in this area, along with several others to prompt further improvements in performance (see page 49).

QUICK FACTS	2008–2009	2010–2011
Number of requests carried over from previous fiscal year	102	**52**
Number of new requests	150	**205**
Number of requests completed	168	**198**
Number of pages reviewed for requests completed	10,188	**17,563**
Deemed refusal rate	37.7%*	**8.2%***
Average number of days to complete a request	157	**113**
Average number of days to complete a request received in 2010–2011	n/a	**49**
Number of consultation requests received	86	**111**
Percentage of required extension notices submitted to the OIC	<85%	**>85%**
Number of complaints registered with the OIC	11	**4**
Number of complaints the OIC resolved	4**	**0***
Number of full-time equivalents in access to information operations, as of the end of the fiscal year	8.29	**9.8**

FOLLOW-UP ON 2008–2009 RECOMMENDATIONS

Delegation order .... Met expectations

Backlog/improvement plan .... Met expectations

Consultations: protocols .... Met expectations

Consultations: inform requesters of additional records .... Met expectations

Consultations: time extensions .... Met expectations

Extension notices .... Met expectations

See report card text for details. For the full text of the recommendations, as well as the institution's initial response and October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_4.aspx.

* Percentage of carried over and new requests delayed beyond the deadlines (30 days and extended) set out in the *Access to Information Act*. (See Appendix B for the formula the OIC used to calculate this rate.)

** A complaint is resolved when the OIC finds it has merit and the institution resolves it to the Commissioner's satisfaction. The number of complaints reported reflects complaints resolved as of November 2011. As a result, the figure for 2008–2009 may differ from what appeared in the 2008–2009 report card.

Report card

The Canadian International Development Agency (CIDA) turned in a very good performance in 2010–2011, despite a growing workload (37 percent more access requests and 29 percent more consultation requests compared with 2008–2009). The deemed refusal rate dropped from 37.7 percent to 8.2 percent, and the average time to complete a request fell from 157 days to 113 days. CIDA was able to clear its backlog of long-standing requests. (This inflates the average completion time. Excluding the backlogged cases, CIDA's average completion time for requests received and completed in 2010–2011 was 49 days.) The Office of the Information Commissioner (OIC) registered only 4 complaints against CIDA in 2010–2011, compared with 11 in 2008–2009.

CIDA reported that its success was the result of receiving the resources necessary to secure consultants, establishing clear communication within the access to information team, implementing new procedures and creating a procedures manual, and providing extensive training (32 training sessions with 452 CIDA employees—with the priority on program areas that had trouble meeting their access obligations and those that asked for training). Access officials report that senior management has supported the shift to making access to information and privacy training mandatory for all employees.

With fewer complaints to respond to, CIDA reports that it was able to spend more time in communication with requesters. Analysts now discuss with requesters the possibility of partially releasing documents while awaiting responses on consultations, and also explain the use of exemptions. Not only does this help reduce the number of complaints, but it is also a good example of exercising the duty to assist. The reduction in complaints is likely also a result of more requests staying on time (CIDA completed all but nine requests—6 percent—within the deadlines it had set).

Consultations with other institutions have been more timely, thanks to informal agreements that CIDA put in place with Foreign Affairs and International Trade Canada, National Defence and the Department of Justice Canada. Follow-ups are still required when these institutions do not respect agreed-upon deadlines. The exercise of closing a request while engaging in consultations with other government institutions is a practice about which the OIC has expressed concern. The OIC is of the view that, absent a decision by the institution to apply an exemption in a substantive matter and to properly affect the severance required by section 25 of the *Access to Information Act*, a file should not be closed. The OIC, however, encourages institutions to make partial releases whenever possible, to fulfill their duty to assist.

Further, the OIC advocates that an institution set out fixed time frames within which consulted institutions have an opportunity to provide their severing recommendations, failing which the government institution in receipt of the request would determine for itself any applicable exemptions. This would obviate CIDA's practice of closing files with outstanding consultations.

CIDA reported that although changes have been made to the agency's information management system, further improvements are needed. Access officials said that upcoming awareness sessions should clarify some of the outstanding issues.

CIDA must be commended for its performance in 2010–2011. However, the OIC agrees with the access to information coordinator at this institution, who noted during the report card interview how quickly performance can decline. CIDA has reported that its performance for 2011–2012 will not be as good as that for 2010–2011. Due to a variety of factors, most notably the growing workload, the sudden loss of several employees and organizational restructuring, access staff have been finding it very difficult to adhere to legislative deadlines. This underlines the need for long-term planning.

Follow-up on 2008–2009 recommendations

The OIC issued six recommendations to CIDA with the 2008–2009 report card. The following summarizes the subsequent developments at the institution in response. (For the full text of the recommendations, the institution's response and its October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_4.aspx.)

1. CIDA now closely follows its delegation order in the wake of the OIC's recommendation to eliminate unnecessary approvals. The Minister's office now receives a copy of release packages for information only, 72 hours before disclosure.

2. At the OIC's recommendation, CIDA put an improvement plan in place that has resulted in the elimination of the backlog of long-standing requests and a large improvement in CIDA's deemed refusal rate.

3. CIDA has agreements regarding consultations in place with the institutions it consults most, as per the OIC's recommendations.

4. CIDA has a process in place to ensure that requesters know that it may receive additional records resulting from mandatory consultations, even though CIDA has closed the file. During the 2008–2009 report card process, it was unclear to the OIC whether CIDA was following this practice. As noted, the OIC does not agree with institutions' closing files with outstanding consultations after doing a partial release of records.

Access to information workload, 2008–2009 to 2010–2011

This graph shows the sources of the Canadian International Development Agency's workload for the three fiscal years starting in 2008–2009. Comparing 2008–2009 to 2010–2011, the institution saw a 9-percent increase in its workload. It carried 49 percent fewer requests over from the previous fiscal year, but received 37 percent more new access requests and 29 percent more consultation requests. The number of pages reviewed for requests completed increased by 72 percent.
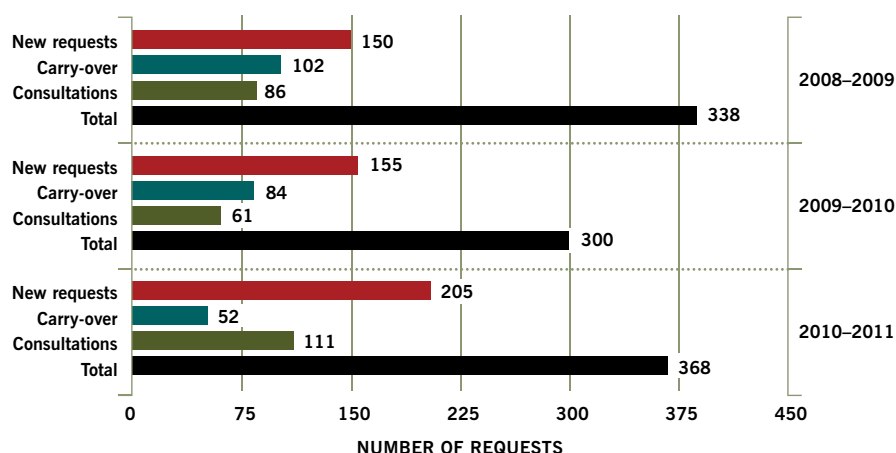
2008–2009
- New requests: 150
- Carry-over: 102
- Consultations: 86
- Total: 338

2009–2010
- New requests: 155
- Carry-over: 84
- Consultations: 61
- Total: 300

2010–2011
- New requests: 205
- Carry-over: 52
- Consultations: 111
- Total: 368

NUMBER OF REQUESTS

How long it took to complete new requests, 2008–2009 and 2010–2011

Between 2008–2009 and 2010–2011, the proportion of new access requests the Canadian International Development Agency (CIDA) completed within the timelines (30 days and extended) set out in the *Access to Information Act* increased from 67 percent to 94 percent. The remaining requests were completed late: 49 requests in 2008–2009 and 9 in 2010–2011.
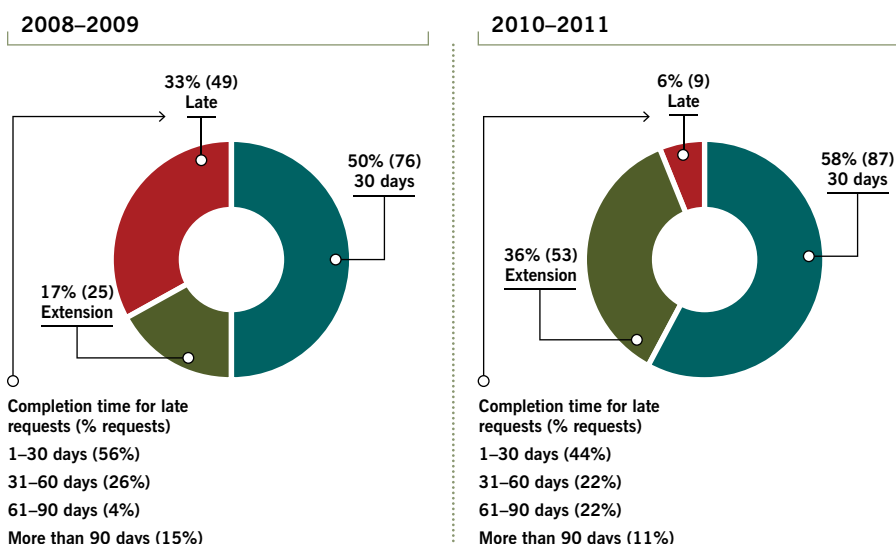
2008–2009

33% (49) Late
50% (76) 30 days
17% (25) Extension

Completion time for late requests (% requests)
1–30 days (56%)
31–60 days (26%)
61–90 days (4%)
More than 90 days (15%)

2010–2011

6% (9) Late
58% (87) 30 days
36% (53) Extension

Completion time for late requests (% requests)
1–30 days (44%)
31–60 days (22%)
61–90 days (22%)
More than 90 days (11%)

Number and length of time extensions taken, 2008–2009 and 2010–2011

This graph shows the number and length of the time extensions the Canadian International Development Agency (CIDA) reported to have taken in 2008–2009 and 2010–2011. CIDA supplied this information in the notices it sent to the Office of the Information Commissioner (OIC) under subsection 9(2) of the *Access to Information Act*. CIDA submitted fewer than 85 percent of the required notices in 2008–2009, at which point the OIC issued a recommendation that CIDA improve its performance in this area. In 2010-2011, CIDA submitted more than 85 percent of the required notices. The OIC notes the increase in the number of time extensions CIDA took in 2010–2011, particularly the large jump in those for 91–120 days and for more than 180 days.

2008–2009

Length	Number
31–90 days	11
91–120 days	5
121–150 days	2
151–180 days	4
> 180 days	8
Unspecified	11

2010–2011

Length	Number
31–90 days	7
91–120 days	24
121–150 days	5
151–180 days	5
> 180 days	23
Unspecified	8
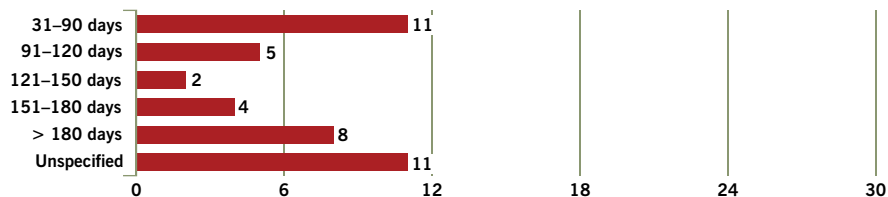
NUMBER OF EXTENSIONS

Number and outcome of delay-related complaints, 2008–2009 to 2010–2011

These graphs show the number and outcome of two types of complaint registered against the Canadian International Development Agency (CIDA) in the three fiscal years starting in 2008–2009: complaints about deemed refusals (access to information requests that CIDA delayed beyond the deadlines—30 days and extended—set out in the *Access to Information Act*) and complaints about CIDA's use of the time extensions allowed under the Act. There were no complaints against CIDA in either of these categories in 2010–2011.

Deemed refusal complaints

	2008–2009	2009–2010	2010–2011
Resolved*	2	1	0
Not substantiated	0	0	0
Discontinued	5	2	0
Pending	0	0	0

Time extension complaints

	2008–2009	2009–2010	2010–2011
Resolved*	2	6	0
Not substantiated	1	3	0
Discontinued	0	1	0
Pending	0	0	0

NUMBER OF COMPLAINTS

* Resolved complaints are those that the Office of the Information Commissioner finds to have merit and that the institution resolves to the Commissioner's satisfaction.

Number and outcome of complaints received by the Office of the Information Commissioner, 2008–2009 to 2010–2011

	RESOLVED*	NOT SUBSTANTIATED	DISCONTINUED	PENDING	TOTAL
2008–2009					
Administrative	4	1	5	0	**10**
Refusals	0	0	0	1	**1**
Cabinet confidences	0	0	0	0	**0**
Total	**4**	**1**	**5**	**1**	**11**
2009–2010					
Administrative	7	4	3	0	**14**
Refusals	0	3	1	3	**7**
Cabinet confidences	0	1	0	0	**1**
Total	**7**	**8**	**4**	**3**	**22**
2010–2011					
Administrative	0	0	0	2	**2**
Refusals	0	0	0	2	**2**
Cabinet confidences	0	0	0	0	**0**
Total	**0**	**0**	**0**	**4**	**4**

This table sets out the number and outcome of the complaints the Office of the Information Commissioner (OIC) registered against the Canadian International Development Agency (CIDA) in the three fiscal years starting in 2008–2009. Although CIDA saw an increase in complaints in 2009–2010 compared to the year before, more than half of these were not substantiated or discontinued. In 2010–2011, the number of complaints dropped sharply. Of the four complaints registered, all were pending at the time of writing.

* Resolved complaints are those that the OIC finds to have merit and that the institution resolves to the Commissioner's satisfaction.

5. CIDA regularly consults other institutions to set realistic deadlines, as the OIC recommended. However, the OIC notes the increase in the number of time extensions CIDA took in 2010–2011, particularly the large jump in those for 91–120 days and for more than 180 days.

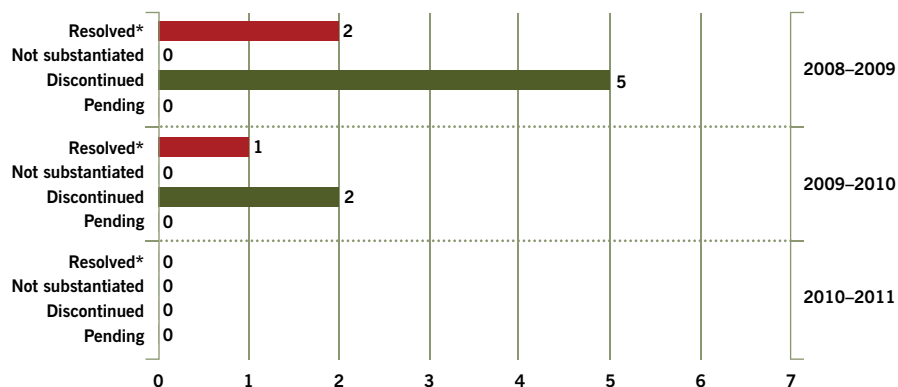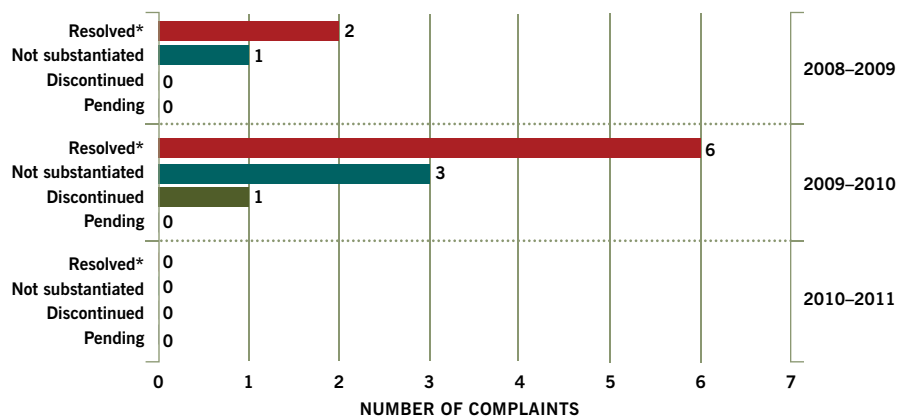6. The OIC recommended that CIDA improve its procedures to ensure it submits all the required notices of extensions of more than 30 days. CIDA met the OIC's 85-percent standard for acceptable performance in this area in 2010–2011.

2010–2011 recommendations

CIDA improved its performance in 2010–2011, and the OIC is issuing the following five recommendations to ensure that that improvement continues.

1. The Office of the Information Commissioner recommends that the Minister of International Cooperation and the Deputy Minister of the Canadian International Development Agency demonstrate leadership and maintain the resourcing levels needed for CIDA to comply with its obligations under the *Access to Information Act*.

RESPONSE: *The Minister of International Cooperation and the Deputy Minister of the Canadian International Development Agency (CIDA) will continue to demonstrate leadership and maintain the resourcing levels needed for it to comply with its obligations under the* Access to Information Act*.*

2. The Office of the Information Commissioner recommends that the Canadian International Development Agency not close files with outstanding consultations. Instead, it should set out fixed time frames within which consulted institutions have an opportunity to provide their severing recommendations, failing which CIDA, as the government institution in receipt of the request, would determine for itself any applicable exemptions.

RESPONSE: *CIDA will not close access to information request files with outstanding consultations. CIDA will better estimate time frames for consulting other institutions who provide severing recommendations and will clearly communicate those*

deadlines with them. Should the consulted institutions not meet the deadline, CIDA, as the government institution in receipt of the access to information request, will determine for itself any applicable exemptions for which it has the legal authority.

3. The Office of the Information Commissioner recommends that the Canadian International Development Agency reduce the length of extensions that it takes to process access to information requests.

   RESPONSE: *CIDA will continue to work towards reducing the length of extensions that it takes to process access to information requests in order to achieve better turnaround times for access to information requests.*

4. The Office of the Information Commissioner recommends that the Canadian International Development Agency continue to reduce its deemed refusal rate to zero.

RESPONSE: *CIDA will continue its efforts to reduce its deemed refusal rate to zero by improving efficiency in the processing of its access to information requests. The fact that CIDA, as the government institution in receipt of the access to information request, will now determine for itself any applicable exemptions when consulted institutions do not respond within established time frames should contribute to reducing the refusal rate.*

5. The Office of the Information Commissioner recommends that the Canadian International Development Agency report on its progress implementing these recommendations in its annual report to Parliament on access to information operations.

   RESPONSE: *CIDA will report on its progress implementing these recommendations in its annual report to Parliament on access to information operations.*

Canadian Security Intelligence Service

The Canadian Security Intelligence Service (CSIS) collects, analyzes and retains information and intelligence about activities that may threaten the security of Canada, and reports to and advises the Government of Canada on these matters.

Assessment

A

(Received a D in 2008–2009)

- CSIS performed well in 2010–2011. Its deemed refusal was 3 percent—the lowest among the institutions that were part of the report card process this year. It took CSIS an average of 49 days to complete a request, the second-best rate for the year.

- CSIS cited a number of factors that contributed to its success in 2010–2011: a well-established staff complement, training, compliance monitoring and a general will to improve.

- CSIS satisfactorily implemented all four of the Office of the Information Commissioner's (OIC) 2008–2009 recommendations. The OIC has issued a new recommendation in the area of time extensions for searching through large volumes of records, because it is not clear to the OIC why CSIS had to take so many for this reason when it has an excellent central records registry (see page 55).

QUICK FACTS	2008–2009	2010–2011
Number of requests carried over from previous fiscal year	37	33
Number of new requests	150	263
Number of requests completed	140	260
Number of pages reviewed for requests completed	33,333	31,309
Deemed refusal rate	20.9%*	3%*
Average number of days to complete a request	86	49
Number of consultation requests received	182	257
Percentage of required extension notices submitted to the OIC	<85%	>85%
Number of complaints registered with the OIC	13	22
Number of complaints the OIC resolved	6**	1**
Number of full-time equivalents in access to information operations, as of the end of the fiscal year	15	15

FOLLOW-UP ON 2008–2009 RECOMMENDATIONS

Training .... Met expectations

Deemed refusal rate... Met expectations

Average completion time .... Met expectations

Extension notices... Met expectations

See report card text for details. For the full text of the recommendations, as well as the institution's initial response and October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_4.aspx.

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*   Percentage of carried over and new requests delayed beyond the deadlines (30 days and extended) set out in the *Access to Information Act*. (See Appendix B for the formula the OIC used to calculate this rate.)

** A complaint is resolved when the OIC finds it has merit and the institution resolves it to the Commissioner's satisfaction. The number of complaints reported reflects complaints resolved as of November 2011. As a result, the figure for 2008–2009 may differ from what appeared in the 2008–2009 report card.

Report card

The Canadian Security Intelligence Service (CSIS) performed well in 2010–2011. Its deemed refusal was 3 percent—the lowest among the institutions that were part of the report card process this year. It took CSIS an average of 49 days to complete a request, the second-best rate for the year. This is a significant improvement from CSIS's results on its first-ever report card in 2008–2009, when it received a "D" grade.

CSIS began 2010–2011 with a clean slate, since none of its small carry-over of 31 requests was overdue. The access coordinator cited a number of reasons for how CSIS managed to stay current with its request and consultation workload for the rest of the year.

For example, CSIS has an established complement of employees. It is especially important for CSIS to be able to retain its staff because the stringent security screening that each employee undergoes is a significant investment of time. CSIS has chosen to assign its staff the responsibility for their cases from start to finish. The coordinator said that this makes it easy for anyone to be able to inquire about the advancement—or any other aspect—of a request.

The coordinator also credits training, compliance oversight and a general will to improve for CSIS's commendable performance in 2010–2011. There were two full days of Privasoft training for all staff that was intended to avert technical mishaps; requests were monitored to ensure they were advancing; and the responsible director general was briefed regularly about the access office's statistical progress.

CSIS has begun proactively processing frequently requested records with results that have proven so successful that a full-time resource has been assigned to this task. CSIS also reported that communicating with its applicants has helped to streamline its operations.

CSIS reported an increase of about 50 percent for new requests, and that its consultations are "skyrocketing" (a 41-percent increase from 2008–2009). The coordinator observed that many of the consultation requests it received were not necessary and would prefer that consulting institutions contacted CSIS in advance of sending the consultation.

As reported in the 2008–2009 report card, CSIS has a strong information management advantage, since every record generated is entered into a central registry. This causes the OIC to question, however, why CSIS needed to take extensions on almost half of the new requests it received in 2010–2011, the majority of which were for searching through records or for when the nature of a request impacted operations.

The OIC received three complaints of an administrative nature (delays/time extensions) about CSIS. However, there was a significant increase in the refusal category, which includes complaints about institutions' use of exemptions, there being no records that match the request and incomplete responses.

Follow-up on the 2008–2009 recommendations

The OIC issued four recommendations to CSIS with the 2008–2009 report card. The following summarizes the subsequent developments at the institution in response. (For the full text of the recommendations, the institution's response and its October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_5.aspx).

1. CSIS undertook two full days of Privasoft training for all staff to avoid technical mishaps, as per the OIC's recommendation.

2. In response to the OIC's recommendation, CSIS reduced its deemed refusal rate to 3 percent, from 20.9 percent in 2008–2009.

3. CSIS cut its average time to complete requests nearly in half, to 49 days, which is among the best results for institutions in the 2010–2011 cohort.

4. CSIS met the OIC's 85-percent standard for acceptable performance, in terms of submitting the required notices of extensions taken for longer than 30 days.

Access to information workload, 2008–2009 to 2010–2011

This graph shows the sources of the Canadian Security Intelligence Service's workload for the three fiscal years starting in 2008–2009. Comparing 2008–2009 to 2010–2011, the institution saw a 50-percent increase in its workload. This was accounted for by a 75-percent increase in the number of new requests it received and a 41-percent rise in consultation requests. The number of pages reviewed for requests completed decreased by 6 percent.
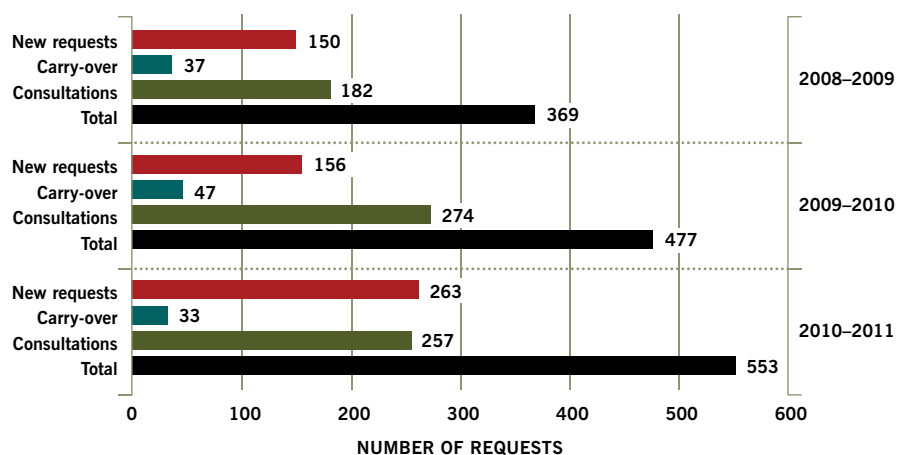
2008–2009
- New requests: 150
- Carry-over: 37
- Consultations: 182
- Total: 369

2009–2010
- New requests: 156
- Carry-over: 47
- Consultations: 274
- Total: 477

2010–2011
- New requests: 263
- Carry-over: 33
- Consultations: 257
- Total: 553

NUMBER OF REQUESTS

How long it took to complete new requests, 2008–2009 and 2010–2011

Between 2008–2009 and 2010–2011, the proportion of new access requests the Canadian Security Intelligence Service (CSIS) completed within the timelines (30 days and extended) set out in the *Access to Information Act* increased from 79 percent to 96 percent. The remaining requests were completed late: 22 requests in 2008–2009 and 9 in 2010–2011. The Office of the Information Commissioner is concerned that CSIS took time extensions for nearly half of the new requests it completed in 2010–2011, although CSIS was the subject of only two time extension complaints that year.
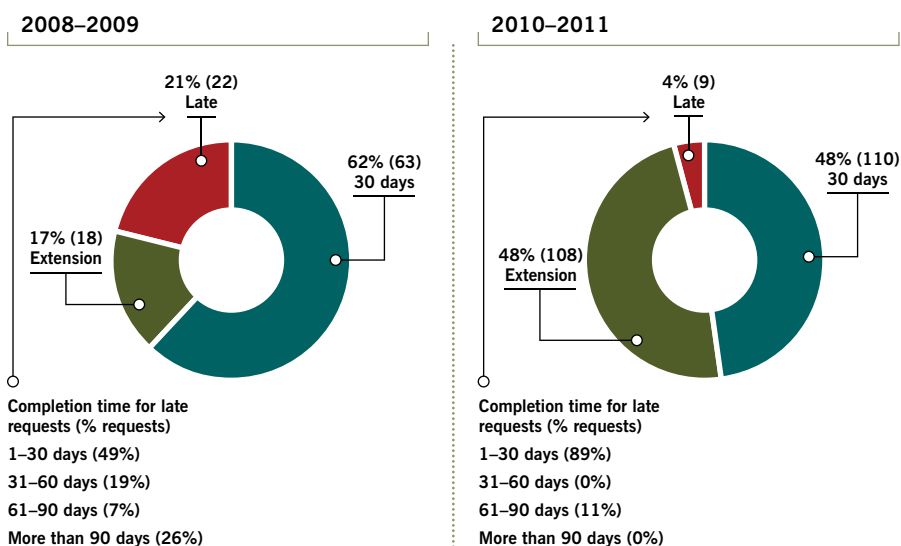
2008–2009

- 21% (22) Late
- 62% (63) 30 days
- 17% (18) Extension

Completion time for late requests (% requests)
1–30 days (49%)
31–60 days (19%)
61–90 days (7%)
More than 90 days (26%)

2010–2011

- 4% (9) Late
- 48% (110) 30 days
- 48% (108) Extension

Completion time for late requests (% requests)
1–30 days (89%)
31–60 days (0%)
61–90 days (11%)
More than 90 days (0%)

Number and length of time extensions taken, 2008–2009 and 2010–2011

This graph shows the number and length of the time extensions the Canadian Security Intelligence Service (CSIS) reported to have taken in 2008–2009 and 2010–2011. The institution supplied this information in the notices it sent to the Office of the Information Commissioner (OIC) under subsection 9(2) of the *Access to Information Act*. CSIS submitted fewer than 85 percent of the required notices in 2008–2009, at which point the OIC issued a recommendation that CSIS improve its performance in this area. In 2010–2011, CSIS submitted more than 85 percent of the required notices.
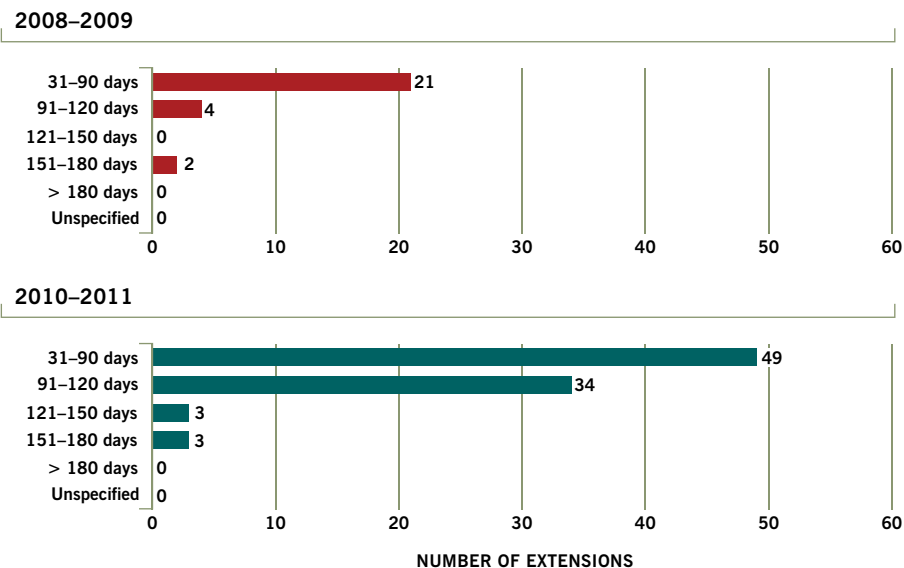
2008–2009

31–90 days	21
91–120 days	4
121–150 days	0
151–180 days	2
> 180 days	0
Unspecified	0

2010–2011

31–90 days	49
91–120 days	34
121–150 days	3
151–180 days	3
> 180 days	0
Unspecified	0

NUMBER OF EXTENSIONS

Number and outcome of delay-related complaints, 2008–2009 to 2010–2011

These graphs show the number and outcome of two types of complaint registered against the Canadian Security Intelligence Service (CSIS) in the three fiscal years starting in 2008–2009: complaints about deemed refusals (access to information requests that CSIS delayed beyond the deadlines—30 days and extended—set out in the *Access to Information Act*) and complaints about CSIS's use of the time extensions allowed under the Act. After receiving no complaints about CSIS in 2009–2010, the Office of the Information Commissioner received one deemed refusal complaint and two time extension complaints in 2010–2011.

Deemed refusal complaints

2008–2009
Resolved*	3
Not substantiated	0
Discontinued	0
Pending	0

2009–2010
Resolved*	0
Not substantiated	0
Discontinued	0
Pending	0

2010–2011
Resolved*	1
Not substantiated	0
Discontinued	0
Pending	0

Time extension complaints

2008–2009
Resolved*	2
Not substantiated	0
Discontinued	1
Pending	0

2009–2010
Resolved*	0
Not substantiated	0
Discontinued	0
Pending	0

2010–2011
Resolved*	0
Not substantiated	0
Discontinued	1
Pending	1

NUMBER OF COMPLAINTS

* Resolved complaints are those that the Office of the Information Commissioner finds to have merit and that the institution resolves to the Commissioner's satisfaction.

Number and outcome of complaints received by the Office of the Information Commissioner, 2008–2009 to 2010–2011

	RESOLVED*	NOT SUBSTANTIATED	DISCONTINUED	PENDING	TOTAL
2008–2009					
Administrative	5	0	1	0	**6**
Refusals	1	2	2	2	**7**
Cabinet confidences	0	0	0	0	**0**
Total	**6**	**2**	**3**	**2**	**13**
2009–2010					
Administrative	0	0	0	0	**0**
Refusals	0	0	2**	2	**4**
Cabinet confidences	0	0	0	0	**0**
Total	**0**	**0**	**2**	**2**	**4**
2010–2011					
Administrative	1	0	1	1	**3**
Refusals	0	0	0	19	**19**
Cabinet confidences	0	0	0	0	**0**
Total	**1**	**0**	**1**	**20**	**22**

This table sets out the number and outcome of the complaints the Office of the Information Commissioner (OIC) registered against the Canadian Security Intelligence Service (CSIS) in the three fiscal years starting in 2008–2009. In 2010–2011, the OIC received three administrative complaints (delays/time extensions), which is an increase from the previous year but, notably, not in proportion to the large increase in the number of time extensions CSIS took in 2010–2011. Of concern to the OIC, however, is a significant increase in the refusal complaints, which includes complaints about institutions' use of exemptions, there being no records that match the request and incomplete responses.

*   Resolved complaints are those that the OIC finds to have merit and that the institution resolves to the Commissioner's satisfaction.

** The OIC began using new disposition categories in 2010–2011. There was one refusal complaint registered in 2009–2010 and closed in 2010–2011 in the new Settled category, which comprises complaints about minor errors, settled to the Commissioner's satisfaction without a finding. For reporting purposes, this complaint was placed in the Discontinued category.

2010–2011 recommendations

In light of CSIS's outstanding performance, the OIC challenges it to assume a leadership role in the access to information community.

1. The Office of the Information Commissioner recommends that the Canadian Security Intelligence Service review and document the criteria it uses for extensions taken under paragraph 9(1)(*a*) of the *Access to Information Act* to ensure that the extensions are reasonable and legitimate.

   RESPONSE: *The criteria for extensions will be reviewed in each case considered for an extension to ensure the extensions are reasonable and legitimate. The underlying reason behind each time extension will be duly documented in the ATIP case management system.*

2. The Office of the Information Commissioner recommends that the Canadian Security Intelligence Service report on its progress implementing this recommendation in its annual report to Parliament on access to information operations.

   RESPONSE: *The 2011–2012 Access to Information Act Annual Report to Parliament will address this issue.*

Correctional Service of Canada

The Correctional Service of Canada (CSC) manages correctional institutions of various security levels housing offenders serving sentences of two years or more. CSC also supervises offenders under conditional release in the community. CSC contributes to public safety by actively encouraging and assisting offenders to become law-abiding citizens, providing programs for them during their sentences.

Assessment
(Received an F in 2008–2009)

- CSC improved its performance in 2010–2011, even though it received 47 percent more new requests and 33 percent more consultation requests than it did in 2008–2009. CSC's deemed refusal rate was 13.7 percent and the average time to complete a request was 46 days. However, the Office of the Information Commissioner (OIC) has concerns about practices at CSC related to the retrieval of records and that the number of complaints has increased since 2008–2009.

- CSC attributes its improved performance to receiving $1.7 million in additional funding to hire 14 new full-time staff, developing a compliance manual, taking a proactive approach to dealing with requesters, and moving to electronic redaction software.

- While CSC's performance is better than it was, there is considerable room for improvement. To that end, the OIC has issued seven new recommendations (see page 59).

QUICK FACTS	2008–2009	2010–2011
Number of requests carried over from previous fiscal year	126	84
Number of new requests	408	601
Number of requests completed	455	548
Number of pages reviewed for requests completed	41,054	55,663
Deemed refusal rate	47%*	13.7%*
Average number of days to complete a request	110	46
Number of consultation requests received	69	92
Percentage of required extension notices submitted to the OIC	<85%	<85%
Number of complaints registered with the OIC	57	82
Number of complaints the OIC resolved	20**	23**
Number of full-time equivalents in access to information operations, as of the end of the fiscal year	10.5	12.5

FOLLOW-UP ON 2008–2009 RECOMMENDATIONS

Leadership: culture of compliance.......................... Met expectations

Leadership: communicate expectations to staff........ Met expectations

Resources .... Met expectations

Average completion time .... Met expectations

Extension notices......................................Did not meet expectations

See report card text for details. For the full text of the recommendations, as well as the institution's initial response and October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_6.aspx.

* Percentage of carried over and new requests delayed beyond the deadlines (30 days and extended) set out in the *Access to Information Act*. (See Appendix B for the formula the OIC used to calculate this rate).

** A complaint is resolved when the OIC finds it has merit and the institution resolves it to the Commissioner's satisfaction. The number of complaints reported here is current as of November 2011. As a result, the figure for 2008–2009 may be different from what appeared in the 2008–2009 report card.

After going to press, the Correctional Service of Canada clarified the fourth sentence of the fourth paragraph, second column, on page 58. That sentence should read as follows: "To respond to these challenges, CSC is exploring making dedicated computers available to inmates with the necessary software to allow them restricted access to the requested information and documents. "

Report card

The Correctional Service of Canada (CSC) improved its performance in 2010–2011, even though it received 47 percent more new requests and 33 percent more consultations than in 2008–2009. CSC's deemed refusal rate was 13.7 percent and the average time to complete a request was 46 days.

While this trend is positive, the Office of the Information Commissioner (OIC) has two specific concerns. The first is that the number of extensions taken by CSC has increased significantly. The second is that, according to the results of some complaint investigations, CSC appears to be increasing the timeliness of its response by, in some instances, not retrieving and processing requested records. CSC's decision to not process all requested information is contrary to the requirements of the *Access to Information Act* and the January 16, 2012, Treasury Board of Canada Secretariat Directive on the Administration of the *Access to Information Act* (http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?section=text&id=18310). The OIC will continue to monitor this situation closely.

The OIC is also concerned about the 44-percent increase in the number of complaints: from 57 in 2008–2009 to 82 in 2010–2011. That said, 51 percent of the complaints registered in 2010–2011 that have been closed were found to be not substantiated or were discontinued.

In response to the 2008–2009 report card, access officials at CSC put forward a business case that resulted in their receiving an additional $1.7 million in funding for the access function. This included funding for an additional 14 full-time employees, eight of whom perform tele-work the majority of the time. CSC has had some success recruiting internally, and regularly receives expressions of interest from employees in other organizations, who reportedly find the nature of CSC's files interesting. CSC has also recently developed a formal career progression program in the hopes of retaining staff. The coordinator reports some concern about whether the resource levels will continue to be sufficient if request volumes climb at a level commensurate with an anticipated increase in the number of federal inmates, who frequently submit access to information requests to CSC.

Other developments include a new compliance manual created by the policy and training unit, which serves as an authoritative guide for access staff. The manual details the steps involved in processing requests, explains the application of specific exemptions and exclusions, and contains important policy information. CSC has also seen a renewed focus on training, with the access unit delivering 15 training sessions to more

than 300 employees in 2010–2011. Among these was three-day, on-the-job training for the access liaisons in the program areas. Since the training has been positively received, CSC intends to expand these sessions in the future.

CSC reported that a proactive approach to dealing with requesters and making an effort to fulfill its duty to assist have also been helpful in processing requests in a timely manner.

The organization moved to electronic redaction software in 2010–2011, which CSC expects will result in increased efficiencies in responding to access to information requests. Also of note is the access to information office's visible presence on CSC's website. Here, the public can easily access information on the duty to assist, as well as annual reports and frequently asked questions.

Again, since a large number of CSC's requesters are federal inmates, this creates unique access-related challenges. One has been the format in which to provide documents to inmates, since CDs are not allowed (they can be used as weapons) and inmates may only hold 1,000 pages of documents in their cell at a given time. In addition, some requested records are only available on the Internet, and inmates cannot always easily access a computer. To respond to these challenges, CSC is exploring putting a dedicated computer station in penal libraries with limited Internet access and the necessary software so that inmates can review their requested documents online. This would also help alleviate an OIC concern that has come to light during complaint investigations that CSC is refusing access to inmates under paragraph 68(a) of the *Access to Information Act* because the information they requested is already available to the public.

Follow-up on the 2008–2009 recommendations

The OIC issued five recommendations to CSC with the 2008–2009 report card. The following summarizes the subsequent developments at the institution in response. (For the full text of the recommendations, the institution's response and its October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_6.aspx.)

1. The OIC was concerned in 2008–2009 about whether CSC senior management was providing sufficient leadership to promote a culture of compliance across the organization. In 2010, CSC's Commissioner reiterated to management that the provisions of the *Access to Information Act* must be respected regarding timelines and provision of records.

2. In response to the OIC's recommendation that CSC clearly communicate to staff that they are expected to comply with the terms of the Act, the Deputy Commissioner issued a memorandum providing detailed instructions on the procedures and timelines for responding to access requests.

3. Based on the OIC's recommendation, access officials at CSC put together a business case for more funding. This resulted in an influx of $1.7 million, including funding for an additional 14 full-time employees.

4. In response to the OIC's recommendation, CSC decreased its average completion time for requests to 46 days, from 110 in 2008–2009.

5. In 2008–2009, CSC submitted fewer than 85 percent of the required notices about the extensions it took for more than 30 days. In 2010–2011, while the number of submissions improved, CSC did not meet the OIC's 85-percent standard for acceptable performance.

2010–2011 recommendations

Although CSC's performance was better in 2010–2011 than it was in 2008–2009, there is still considerable room for improvement. As a result, the OIC is issuing seven new recommendations.

1. Given its circumstances, the Correctional Service of Canada is at risk of reverting to a lower level of performance. The

Access to information workload, 2008–2009 to 2010–2011

This graph shows the sources of the Correctional Service of Canada's workload for the three fiscal years starting in 2008–2009. Comparing 2008–2009 to 2010–2011, the institution saw a 29-percent increase in its workload. This is largely due to the 47-percent increase in new requests. Consultation requests increased as well, by one third, but this was balanced by the institution's carrying over one-third fewer requests from the previous fiscal year. The number of pages reviewed for requests completed increased by 36 percent.
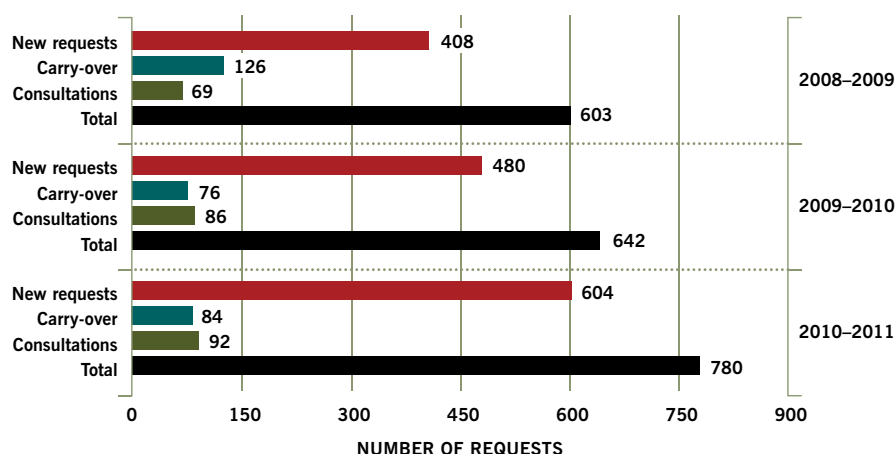
2008–2009
New requests 408
Carry-over 126
Consultations 69
Total 603

2009–2010
New requests 480
Carry-over 76
Consultations 86
Total 642

2010–2011
New requests 604
Carry-over 84
Consultations 92
Total 780

NUMBER OF REQUESTS

How long it took to complete new requests, 2008–2009 and 2010–2011

Between 2008–2009 and 2010–2011, the proportion of new access requests the Correctional Service of Canada (CSC) completed within the timelines (30 days and extended) set out in the *Access to Information Act* increased from 56 percent to 88 percent. The remaining requests were completed late: 169 requests in 2008–2009 and 58 in 2010–2011. In 2010–2011, CSC took time extensions for almost as many requests as it completed within 30 days. Despite this, CSC was the subject of only five time extension complaints in 2010–2011, compared to three in 2008–2009.
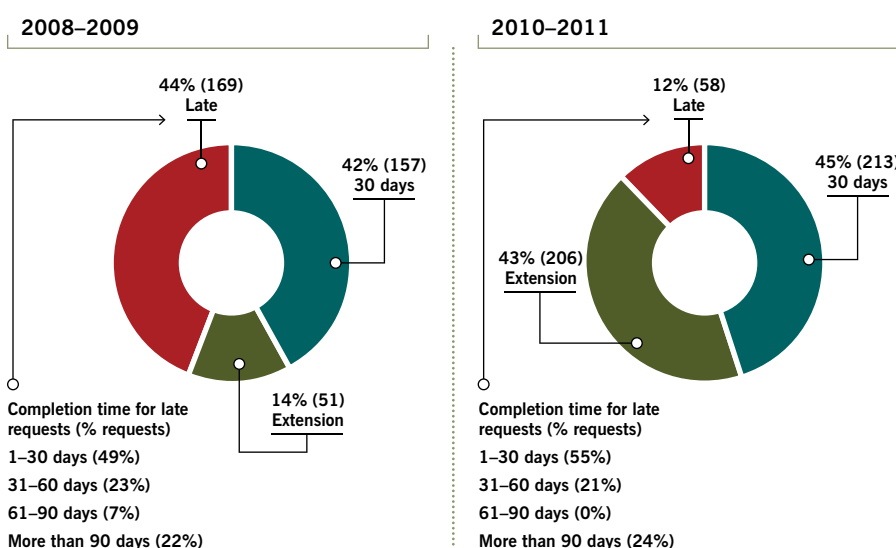
2008–2009

44% (169) Late
42% (157) 30 days
14% (51) Extension

Completion time for late requests (% requests)
1–30 days (49%)
31–60 days (23%)
61–90 days (7%)
More than 90 days (22%)

2010–2011

12% (58) Late
45% (213) 30 days
43% (206) Extension

Completion time for late requests (% requests)
1–30 days (55%)
31–60 days (21%)
61–90 days (0%)
More than 90 days (24%)

Number and length of time extensions taken, 2008–2009 and 2010–2011

This graph shows the number and length of the time extensions the Correctional Service of Canada (CSC) reported to have taken in 2008–2009 and 2010–2011. The institution supplied this information in the notices it sent to the Office of the Information Commissioner (OIC) under subsection 9(2) of the *Access to Information Act*. CSC submitted fewer than 85 percent of the required notices in 2008–2009, at which point the OIC issued a recommendation that CSC improve its performance in this area. While the institution did submit more notices in 2010–2011, it did not meet the OIC's 85-percent standard for acceptable performance. The OIC notes the significant increase in the number of time extensions CSC took between 2008–2009 and 2010–2011.
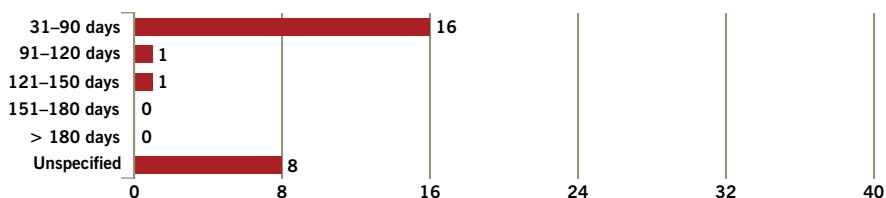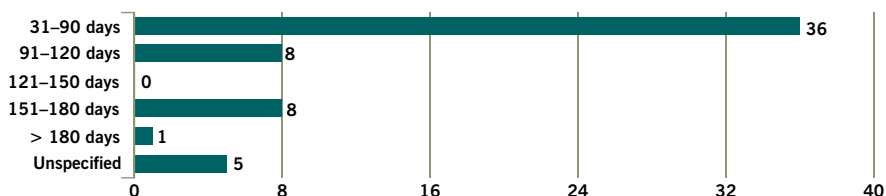
2008–2009

31–90 days	16
91–120 days	1
121–150 days	1
151–180 days	0
> 180 days	0
Unspecified	8

2010–2011

31–90 days	36
91–120 days	8
121–150 days	0
151–180 days	8
> 180 days	1
Unspecified	5

NUMBER OF EXTENSIONS

Number and outcome of delay-related complaints, 2008–2009 to 2010–2011

These graphs show the number and outcome of two types of complaint registered against the Correctional Service of Canada (CSC) in the three fiscal years starting in 2008–2009: complaints about deemed refusals (access to information requests that CSC delayed beyond the deadlines—30 days and extended—set out in the *Access to Information Act*) and complaints about CSC's use of the time extensions allowed under the Act. CSC was the subject of more deemed refusal and time extension complaints in 2010–2011 than in 2008–2009, but in each instance roughly half of these were not substantiated or were discontinued.

Deemed refusal complaints
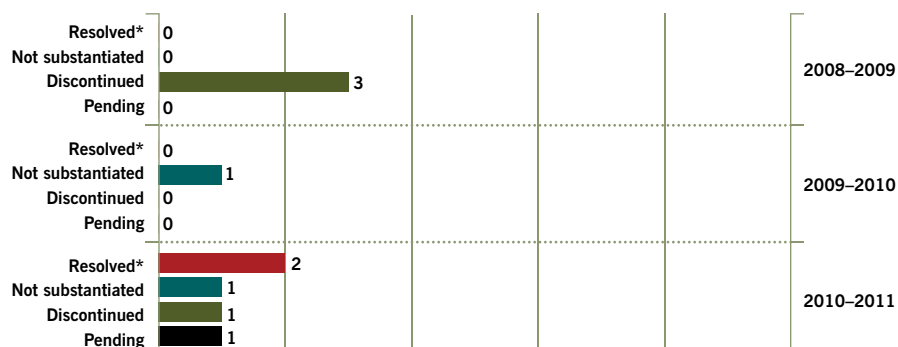
Resolved*	8	2008–2009
Not substantiated	1	
Discontinued	0	
Pending	0	
Resolved*	6	2009–2010
Not substantiated	0	
Discontinued	1	
Pending	4	
Resolved*	6	2010–2011
Not substantiated	4	
Discontinued	4	
Pending	0	

Time extension complaints

Resolved*	0	2008–2009
Not substantiated	0	
Discontinued	3	
Pending	0	
Resolved*	0	2009–2010
Not substantiated	1	
Discontinued	0	
Pending	0	
Resolved*	2	2010–2011
Not substantiated	1	
Discontinued	1	
Pending	1	

NUMBER OF COMPLAINTS

* Resolved complaints are those that the Office of the Information Commissioner finds to have merit and that the institution resolves to the Commissioner's satisfaction.

Number and outcome of complaints received by the Office of the Information Commissioner, 2008–2009 to 2010–2011

	RESOLVED*	NOT SUBSTANTIATED	DISCONTINUED	PENDING	TOTAL
2008–2009					
Administrative	12	1	6	0	**19**
Refusals	8	10	6	13	**37**
Cabinet confidences	0	1	0	0	**1**
Total	**20**	**12**	**12**	**13**	**57**
2009–2010					
Administrative	9	2	4	4	**19**
Refusals	4	9	3	18	**34**
Cabinet confidences	0	0	0	0	**0**
Total	**13**	**11**	**7**	**22**	**53**
2010–2011					
Administrative	19	15	12	2	**48**
Refusals	4	10	5	15	**34**
Cabinet confidences	0	0	0	0	**0**
Total	**23**	**25**	**17**	**17**	**82**

This table sets out the number and outcome of the complaints the Office of the Information Commissioner (OIC) registered against the Correctional Service of Canada (CSC) in the three fiscal years starting in 2008–2009. CSC has seen its complaint numbers increase 44 percent since the 2008–2009 report card. The largest jumps were in fees and miscellaneous complaints, both of which fall under the administrative category. Of the complaints registered in 2010–2011 that have been closed, 51 percent were found to be not substantiated or were discontinued; 17 complaints are pending.

*   Resolved complaints are those that the OIC finds to have merit and that the institution resolves to the Commissioner's satisfaction.

Office of the Information Commissioner therefore recommends that the Commissioner of the Correctional Service of Canada demonstrate the leadership necessary to stabilize access to information operations and create a culture of compliance throughout the institution.

RESPONSE: *The Commissioner will hold a discussion at the next available Executive Committee Meeting about the ATIP process and the importance of respecting the provisions of the Act and for the senior executives to further demonstrate leadership in this area with their respective regions and sectors.*

In order to ensure compliance within CSC, random compliance reports will be done, analyzed and shared with the Executive Committee.

Compliance will be reviewed on a quarterly basis and shared with Executive Committee.

Staffing in the ATIP Division will be stabilized in order to ensure a full access to information staff complement in order to meet all requirements of the ATI Act.

2. The Office of the Information Commissioner recommends that access to information performance be integrated into the performance management agreements of all senior management positions responsible for the access program at the Correctional Service of Canada.

RESPONSE: *The Commissioner will ensure that the ATI responsibility forms part of all senior officials' performance agreements. It should be noted that since the last report card, senior management has been responsible for signing off all OPI Transmittal Note and Checklists, ensuring accuracy and thoroughness of all ATI retrievals.*

3. The Office of the Information Commissioner recommends that the Correctional Service of Canada continue to reduce its deemed refusal rate to zero.

RESPONSE: *As CSC ATIP strives to improve its compliance rate in responding to requests within the legislated time frames, the following has been implemented:*

* *CSC ATIP office has increased its FTE complement by 14 as a result of funding allocated through a business case.*

* *Regular ATI awareness sessions for CSC employees to improve response times and deliverables.*

- *CSC ATIP is exploring innovative ways to maximize efficiencies through process, procedural and technology improvements.*

- *It is also exploring the possibility of the use of the ATIP Scanning Workflow, a component of Access Pro Redaction software currently used by the ATIP Division. The business process would provide ATIP Liaisons across the country the ability to scan documents to specific folders on the national file server. This will require completion of a business case for consideration by the organization.*

- *A complaint review process has been established with regular ongoing discussions with OIC staff.*

- *In its Duty to Assist, CSC ATIP negotiates with applicants to reduce scope and offer alternatives, where possible, as in previously released information, publicly accessible documentation or informal discussions with program officials.*

- *CSC ATIP will continue to reduce its deemed refusal rate from 47% in 2008–2009 to less than 10% in 2012–2013. The deemed refusal rate for 2010–2011 was 13.7%.*

These continued efforts are expected to result in a reduction of the deemed refusal rate.

4. The Office of the Information Commissioner recommends that, pursuant to the *Access to Information Act* and the Treasury Board of Canada Secretariat's Directive on the Administration of the *Access to Information Act*, the Correctional Service of Canada retrieve all responsive records for each request for consideration of the proper delegated authority to apply extensions and invoke exclusions, regardless of whether the program areas are of the view that all the information will be exempt from disclosure.

RESPONSE: *An OPI Liaison has been designated in every sector and regional office in order to assist ATIP in tracking responses received and ensuring that all responsive documents have been submitted.*

On-the-job training sessions are offered to new Liaisons in order for them to familiarize themselves with the ATI procedures and ATIP functions.

Training sessions are offered on a regular basis to employees, for example through the New Employee Orientation Training, Warden and Deputy Warden sessions.

A memorandum will be sent by the AC Policy to the Executive Committee members reinforcing the importance of providing all relevant documentation in response to ATI requests and ensuring that each sector and region has a dedicated ATIP Liaison.

5. The Office of the Information Commissioner recommends that the Correctional Service of Canada maintain the resourcing levels needed to respond to the growing volume of access to information requests.

RESPONSE: *Further to changes in legislation concerning Public Safety, a business case was prepared and permanent funding has been received for an additional 14 FTEs. Acting appointments are provided to staff in order for them to learn the ATI process and provide promotional opportunities within the Division, thereby, ensuring staff retention given the government shortage of ATI specialists.*

6. The Office of the Information Commissioner recommends that the Correctional Service of Canada comply with the Act and notify the Office of the Information Commissioner of all the extensions it takes for more than 30 days.

RESPONSE: *In response to the 2008–2009 Report Card, the ATIP Division reviewed its internal practices and modified its extension letter template to ensure that a c.c. appeared at the bottom of the letter prompting the ATIP analyst to send a copy to the Information Commissioner's Office.*

As a method to ensure that notification is done and received by the OIC, a transmittal note requiring acknowledgement of receipt will now be attached to each letter being forwarded to the OIC. As a further measure, the file numbers will be also provided to the OIC by AC Policy.

Furthermore, CSC ATIP will follow up with the OIC on a quarterly basis to ascertain that all notifications have been received and to undertake any required corrective measures in case of missing extension notices.

The ATIP Division will reinforce to its staff the necessity of complying with this legislative requirement by reminding management at weekly meetings and by sending emails to the ATI staff reminding them of their obligations.

7. The Office of the Information Commissioner recommends that the Correctional Service of Canada report on its progress in response to these recommendations in its annual report to Parliament on access to information operations.

RESPONSE: *The CSC ATIP office will ensure that all progress regarding the recommendations made in the Report Card are reflected in its Annual Report to Parliament on ATIA Operations.*

As well, AC Policy responsible for the ATI functions will be providing to the Assistant Commissioner OIC, an update of CSC's compliance to the Act on a quarterly basis.

Environment Canada

Environment Canada's mandate is to preserve and enhance the quality of the natural environment, conserve Canada's renewable resources, conserve and protect Canada's water resources, forecast weather and environmental change, enforce rules relating to boundary waters, and coordinate environmental policies and programs for the federal government.

Assessment
(Received an F in 2008–2009)

C

- Although it received 26 percent more new requests in 2010–2011 compared to 2008–2009, Environment Canada achieved a solid performance.

- Environment Canada attributes its improved performance to a number of factors, including a 72-percent decrease in complaints, a much shorter document retrieval time, a very successful personnel development initiative and improved internal processes.

- The institution satisfactorily implemented all four of the Office of the Information Commissioner's (OIC) 2008–2009 recommendations. To prompt further improvements in performance, the OIC has issued six new recommendations (see page 67).

QUICK FACTS	2008–2009	2010–2011
Number of requests carried over from previous fiscal year	276	**215**
Number of new requests	892	**1,128**
Number of requests completed	914	**1,171**
Number of pages reviewed for requests completed	134,080	**163,273**
Deemed refusal rate	36.9%*	**14.7%***
Average number of days to complete a request	97	**72**
Average number of days to complete a request received in 2010–2011	n/a	**26**
Number of consultation requests received	212	**159**
Percentage of required extension notices submitted to the OIC	<85%	**>85%**
Number of complaints registered with the OIC	54	**15**
Number of complaints the OIC resolved	25**	**7***
Number of full-time equivalents in access to information operations, as of the end of the fiscal year	8.8	**12**

FOLLOW-UP ON 2008–2009 RECOMMENDATIONS

Resources... Met expectations

Backlog .... Met expectations

Records management .... Met expectations

Extension notices... Met expectations

See report card text for details. For the full text of the recommendations, as well as the institution's initial response and October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_7.aspx.

* Percentage of carried over and new requests delayed beyond the deadlines (30 days and extended) set out in the *Access to Information Act*. (See Appendix B for the formula the OIC used to calculate this rate.)

** A complaint is resolved when the OIC finds it has merit and the institution resolves it to the Commissioner's satisfaction. The number of complaints reported here is current as of November 2011. As a result, the figure for 2008–2009 may be different from what appeared in the 2008–2009 report card.

Report card

Although it received 26 percent more requests in 2010–2011 compared to 2008–2009, Environment Canada achieved a solid performance. Its deemed refusal rate was 14.7 percent, and analysts took 26 days to complete new requests received in 2010–2011 (the rate rises to 72 days when long-standing files that were completed are taken into account).

Prior to receiving its 2008–2009 report card, Environment Canada had already implemented an action plan that gave it a head start on improving its access to information performance. Since then, Environment Canada has made significant and steady improvement.

Environment Canada attributes its performance to a number of factors, including a 72-percent decrease in complaints, which has meant more time to deal with current requests. The coordinator reported that there is now a better understanding of the appropriate use of extensions among analysts.

The institution's document retrieval time has greatly improved, the coordinator said, now that Environment Canada has come out the other side of a significant reorganization in 2008–2009. While that was going on, it was often difficult to identify where certain documents were held and by whom. The average retrieval time is down to seven days, the coordinator said, due to a combination of institutional stability (which has made it easier to track the movement of requests within the institution), senior management support and new records management software. In addition, access officials delivered training to more than 700 employees in the last two fiscal years to emphasize the importance of responding quickly to document retrieval requests.

Environment Canada's success with its personnel development initiative is noteworthy. Finding that recruiting employees through collective staffing was largely unsuccessful and that experienced analysts capable of reviewing files were scarce, Environment Canada decided to draw from and develop its own employees. Analysts are now recruited at a junior level and mentored by more senior analysts, gradually progressing to increasingly complex files. This results in the staff not only receiving solid training, but also in greater retention, since employees can see a clear path to advancement. Since candidates are now chiefly recruited from within Environment Canada, they arrive with valuable organizational knowledge.

This curtails the adjustment period, which, in turn, increases productivity. The staffing initiative is proving successful (several employees have already been promoted through the program), yet Environment Canada expects that the initiative's full potential will only be realized in another one to two years.

Environment Canada has also closely examined its internal practices to improve performance. These include processing more requests informally when the information has already been released, developing an intake unit to better manage the front end of the access process and streamlining approval of requests regarding environmental compliance. These requests often result in no records being located, and are generally approved by the manager of the access office, who has full delegation. Environment Canada also reported having improved communication with requesters, and providing partial releases of documents for large-volume requests, when possible.

Although Environment Canada has made progress in closing some of the oldest files in its backlog of long-standing requests, it has not yet been able to eliminate the backlog completely. However, the coordinator reported in the fall of 2011 that the majority of the remaining files were in the final stages of review and approval. The completion of this phase of the improvement plan is notable and should allow for even better results for Environment Canada in subsequent years.

Follow-up on the 2008–2009 recommendations

The OIC issued four recommendations to Environment Canada with the 2008–2009 report card. The following summarizes the subsequent developments at the institution in response. (For the full text of the recommendations, the institution's response and its October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_7.aspx.)

1. Through its personnel development initiative, Environment Canada has been able to successfully recruit, train and retain employees for the access to information office, in line with the OIC's recommendation that it ensure sufficient permanent resources for the function.

2. Environment Canada implemented a solid action plan that has been instrumental in decreasing the number of requests in its backlog, as per the OIC's recommendation.

3. With increased stability in the institution, along with new software, training and senior management support, Environment Canada has been able to decrease its average time to retrieve documents from 26 days to 7. Document retrieval was a significant concern in 2008–2009.

4. Environment Canada met the OIC's 85-percent standard for acceptable performance, in terms of submitting the required notices of extensions taken for longer than 30 days.

Access to information workload, 2008–2009 to 2010–2011

This graph shows the sources of Environment Canada's workload for the three fiscal years starting in 2008–2009. Comparing 2008–2009 to 2010–2011, the institution saw a 9-percent increase in its workload. The number of new requests rose by 26 percent, while the number of consultation requests and requests carried over from the previous fiscal year decreased by 25 percent and 22 percent, respectively. The number of pages reviewed for requests completed increased by 22 percent.
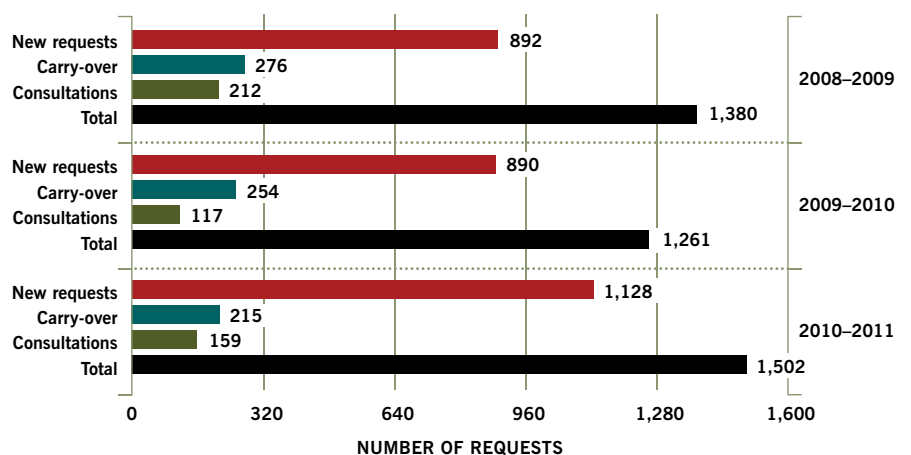
2008–2009
- New requests: 892
- Carry-over: 276
- Consultations: 212
- Total: 1,380

2009–2010
- New requests: 890
- Carry-over: 254
- Consultations: 117
- Total: 1,261

2010–2011
- New requests: 1,128
- Carry-over: 215
- Consultations: 159
- Total: 1,502

NUMBER OF REQUESTS (0, 320, 640, 960, 1,280, 1,600)

How long it took to complete new requests, 2008–2009 and 2010–2011

Between 2008–2009 and 2010–2011, the proportion of new access requests Environment Canada completed within the timelines (30 days and extended) set out in the *Access to Information Act* increased from 80 percent to 93 percent. The remaining requests were completed late: 147 requests in 2008–2009 and 73 in 2010–2011. It is commendable that this pool of overdue requests dropped by half; however, Environment Canada took significantly more time extensions in 2010–2011 than it did in 2008–2009.
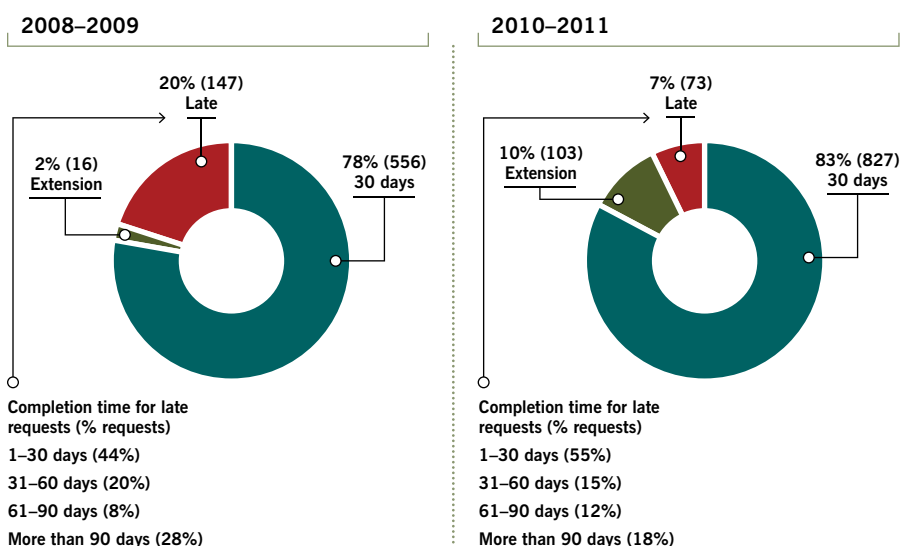
2008–2009
- 20% (147) Late
- 2% (16) Extension
- 78% (556) 30 days

Completion time for late requests (% requests)
- 1–30 days (44%)
- 31–60 days (20%)
- 61–90 days (8%)
- More than 90 days (28%)

2010–2011
- 7% (73) Late
- 10% (103) Extension
- 83% (827) 30 days

Completion time for late requests (% requests)
- 1–30 days (55%)
- 31–60 days (15%)
- 61–90 days (12%)
- More than 90 days (18%)

Number and length of time extensions taken, 2008–2009 and 2010–2011

This graph shows the number and length of the time extensions Environment Canada reported to have taken in 2008–2009 and 2010–2011. The institution supplied this information in the notices it sent to the Office of the Information Commissioner (OIC) under subsection 9(2) of the *Access to Information Act*. Environment Canada submitted fewer than 85 percent of the required notices in 2008–2009, at which point the OIC issued a recommendation that the institution improve its performance in this area. In 2010–2011, Environment Canada submitted more than 85 percent of the required notices. The OIC notes that Environment Canada took more and longer extensions in 2010–2011 compared to 2008–2009.

2008–2009
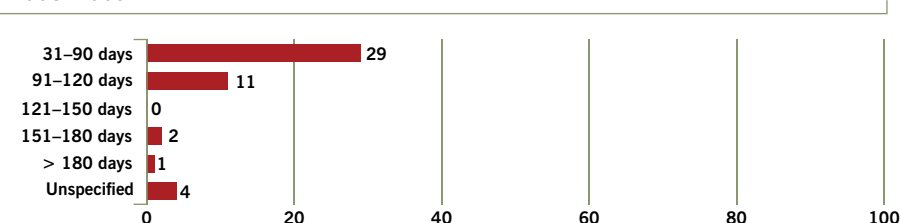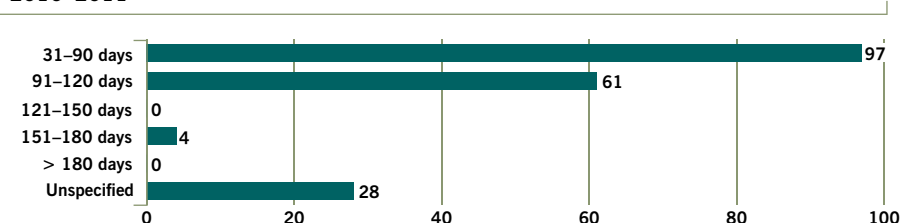
Length	Number
31–90 days	29
91–120 days	11
121–150 days	0
151–180 days	2
> 180 days	1
Unspecified	4

2010–2011

Length	Number
31–90 days	97
91–120 days	61
121–150 days	0
151–180 days	4
> 180 days	0
Unspecified	28

NUMBER OF EXTENSIONS

Number and outcome of delay-related complaints, 2008–2009 to 2010–2011

These graphs show the number and outcome of two types of complaint registered against Environment Canada in the three fiscal years starting in 2008–2009: complaints about deemed refusals (access to information requests that Environment Canada delayed beyond the deadlines—30 days and extended—set out in the *Access to Information Act*) and complaints about Environment Canada's use of the time extensions allowed under the Act. Overall, Environment Canada was the subject of 72 percent fewer complaints in 2010–2011 compared to 2008–2009, including fewer deemed refusal and time extension complaints.

Deemed refusal complaints

Outcome		
Resolved*	13	2008–2009
Not substantiated	1	
Discontinued	2	
Pending	1	
Resolved*	7	2009–2010
Not substantiated	0	
Discontinued	1	
Pending	0	
Resolved*	2	2010–2011
Not substantiated	0	
Discontinued	1	
Pending	0	

Time extension complaints

Outcome		
Resolved*	5	2008–2009
Not substantiated	12	
Discontinued	1	
Pending	0	
Resolved*	2	2009–2010
Not substantiated	0	
Discontinued	0	
Pending	0	
Resolved*	0	2010–2011
Not substantiated	4	
Discontinued	0	
Pending	0	

NUMBER OF COMPLAINTS
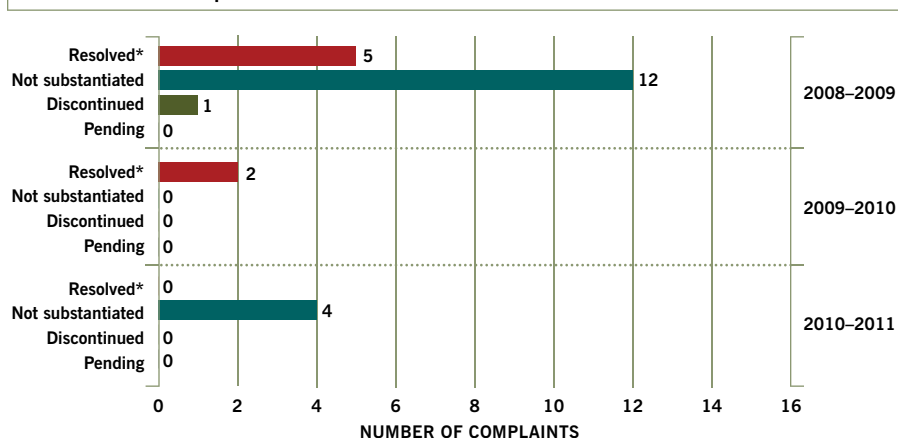
* Resolved complaints are those that the Office of the Information Commissioner finds to have merit and that the institution resolves to the Commissioner's satisfaction.

Number and outcome of complaints received by the Office of the Information Commissioner, 2008–2009 to 2010–2011

	RESOLVED*	NOT SUBSTANTIATED	DISCONTINUED	PENDING	TOTAL
2008–2009					
Administrative	19	13	4	2	**38**
Refusals	6	5	3	1	**15**
Cabinet confidences	0	1	0	0	**1**
Total	**25**	**19**	**7**	**3**	54
2009–2010					
Administrative	10	0	1	0	**11**
Refusals	1	0	2**	0	**3**
Cabinet confidences	0	0	0	0	**0**
Total	**11**	**0**	**3**	**0**	14
2010–2011					
Administrative	7	4	1	0	**12**
Refusals	0	0	2	1	**3**
Cabinet confidences	0	0	0	0	**0**
Total	**7**	**4**	**3**	**1**	15

This table sets out the number and outcome of the complaints the Office of the Information Commissioner (OIC) registered against Environment Canada in the three fiscal years starting in 2008–2009. Environment Canada has seen its complaints volume decrease 72 percent since the 2008–2009 report card. Of the complaints registered by the OIC in 2010–2011 and closed, nearly 50 percent were found to be not substantiated or were discontinued.

*   Resolved complaints are those that the OIC finds to have merit and that the institution resolves to the Commissioner's satisfaction.

** The OIC began using new disposition categories in 2010–2011. There was one refusal complaint registered in 2009–2010 and closed in 2010–2011 in the new Settled category, which comprises complaints about minor errors, settled to the Commissioner's satisfaction without a finding. For reporting purposes, this complaint was placed in the Discontinued category.

2010–2011 recommendations

Although Environment Canada's performance was better in 2010–2011 than it was in 2008–2009, a "C" grade is tenuous and indicates that there is still room for improvement. As a result, the OIC is issuing the following recommendations.

1. The Office of the Information Commissioner recommends that the Minister of the Environment and the Deputy Minister of Environment Canada continue to demonstrate leadership to support the improvement efforts of the access to information office.

   RESPONSE: *Environment Canada (EC) supports this recommendation. The Minister and Deputy Minister of Environment remain committed to the continued improvement of Environment Canada's Access to Information performance. The Deputy Minister is providing his full support to ongoing efforts to strengthen the department's Access to Information capacity. Access to Information performance is reviewed on a monthly basis by EC's Executive Management Committee.*

2. The Office of the Information Commissioner recommends that access to information performance be integrated into the performance management agreements of all senior management positions responsible for the access program at Environment Canada.

   RESPONSE: *Environment Canada supports this recommendation. Access to Information performance is included in the performance management agreements of all senior officials delegated with Access to Information and Privacy responsibilities.*

3. The Office of the Information Commissioner recommends that Environment Canada review and document the criteria it uses for extensions to ensure that they are reasonable and legitimate.

RESPONSE: *Environment Canada supports this recommendation. The Access to Information and Privacy (ATIP) office is currently developing a number of internal procedures and guides for departmental use. As part of this project, detailed guidance will be developed to enable ATIP staff to better assess and document the need for extensions.*

4. The Office of the Information Commissioner recommends that Environment Canada continue to reduce its deemed refusal rate to zero.

RESPONSE: *Environment Canada supports this recommendation and has been working diligently towards a zero deemed refusal goal. Despite a continued increase in the volume of requests, EC's compliance has improved over the last two years. Through continued emphasis on developing staff and streamlining operations, EC anticipates that this trend will continue in the coming years.*

5. The Office of the Information Commissioner recommends that Environment Canada continue with its plan to eliminate the backlog of access requests.

RESPONSE: *Environment Canada supports this recommendation and has been working systematically towards eliminating the backlog of requests. EC will place continued emphasis on addressing the backlog over the next year.*

6. The Office of the Information Commissioner recommends that Environment Canada report on its progress implementing these recommendations in its annual report to Parliament on access to information operations.

RESPONSE: *Environment Canada supports this recommendation and will report on progress in its Annual Report to Parliament on Access to Information.*

Fisheries and Oceans Canada

Fisheries and Oceans Canada (DFO) is a national and international leader in marine safety, and in the management of oceans and freshwater resources. DFO develops and implements policies and programs in support of Canada's scientific, ecological, social and economic interests in oceans and fresh waters, and works towards ensuring these resources benefit current and future generations.

Assessment
(Received a C in 2008–2009)

- DFO turned in a very strong access to information performance in 2010–2011. Its deemed refusal rate was 4.4 percent, and its average completion time for requests it received and completed in 2010–2011 was 39 days. DFO was able to eliminate its backlog, and the number of complaints the Office of the Information Commissioner (OIC) received about DFO in 2010–2011 dropped by two thirds from 2008–2009 levels.

- DFO attributes its significantly improved performance to senior management support, an amended delegation order that allowed a bottleneck in the access office to be cleared, a big drop in complaints volume and the elimination of its backlog.

- DFO satisfactorily implemented all five of the OIC's 2008–2009 recommendations. The OIC commends DFO for its performance and encourages it to become a leader in the access to information community (see page 73).

QUICK FACTS	2008–2009	2010–2011
Number of requests carried over from previous fiscal year	103	67
Number of new requests	396	368
Number of requests completed	409	368
Number of pages reviewed for requests completed	253,621	420,006
Deemed refusal rate	13.2%*	4.4%*
Average number of days to complete a request	86	74
Average number of days to complete a request received in 2010–2011	n/a	39
Number of consultation requests received	155	165
Percentage of required extension notices submitted to the OIC	>85%	>85%
Number of complaints registered with the OIC	33	11
Number of complaints the OIC resolved	12**	3**
Number of full-time equivalents in access to information operations, as of the end of the fiscal year	18.8	23.1

FOLLOW-UP ON 2008–2009 RECOMMENDATIONS

Leadership .... Met expectations

Deemed refusal rate .... Met expectations

Backlog .... Met expectations

Resources .... Met expectations

Records management .... Met expectations

See report card text for details. For the full text of the recommendations and the institution's initial response, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2008-2009_29.aspx.

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* Percentage of carried over and new requests delayed beyond the deadlines (30 days and extended) set out in the *Access to Information Act*. (See Appendix B for the formula the OIC used to calculate this rate.)

** A complaint is resolved when the OIC finds it has merit and the institution resolves it to the Commissioner's satisfaction. The number of complaints reported here is current as of November 2011. As a result, the figure for 2008–2009 may be different from what appeared in the 2008–2009 report card.

Report card

Fisheries and Oceans Canada (DFO) turned in a very strong performance in 2010–2011. Its deemed refusal rate was 4.4 percent, and its average completion time for requests it received and completed in 2010–2011 was 39 days (although this rises to 74 days when long-standing requests that were completed are taken into account). DFO was able to eliminate its backlog, and the number of complaints the Office of the Information Commissioner (OIC) received about DFO in 2010–2011 dropped by two thirds from 2008–2009. By all of these measures, DFO's performance has improved since the previous report card.

At that time, DFO was already well aware of its marginal performance and was initiating discussions at the senior management level about how to improve. One of the results of those discussions was to amend the delegation order to add the Deputy Director, ATIP Operations, and give her full signing authority. This helped to alleviate the bottleneck that was situated there. The result was "fabulous," according to DFO access officials, who reported that requests moved more fluidly and there was a better focal point for control of files and performance of individual teams.

According to the coordinator, having to deal with only one third of the previous level of complaints has freed up analysts to devote their energy to keeping their current files moving.

DFO used consultants to eliminate its backlog and took steps to cooperate with the OIC in resolving a number of long-standing complaints. The coordinator said that DFO hopes to continue to use consultants in order to manage any voluminous and difficult requests that come in, since these can bog down analysts for months and imperil the progress of current requests.

DFO continues to have some information management challenges, with the institution's unwieldy record holdings in all corners of Canada. In addition, DFO reported sometimes having retrieval issues, when, for example, operational priorities coincide with access requests.

As part of a pilot project, DFO introduced a position devoted to policy and governance of its access to information and privacy program. One of the tasks assigned to that position is to look at how to improve training and awareness of access and privacy across the institution, including communication of the importance of the duty to assist principles. DFO also reported increased collaboration between the access office and the Information Management Branch to identify and implement additional ways of communicating the two groups' messages, in the hopes that increased awareness would result in, for example, achieving more effective and faster search and retrieval of records.

DFO has invested in updating both hardware and case management and redaction software for the access program. The DFO website provides valuable information for both internal and external audiences and, for the public, a comprehensive page that includes the contact information for staff (by name) in headquarters and the regions.

The OIC has observed some very lengthy extensions, as reported in the notices DFO sends to the OIC for extensions of longer than 30 days. DFO officials said that requests often involve issues with lengthy historical antecedents (the decline of Pacific salmon stocks and the impact of mining projects on lakes and waterways, for example), which require voluminous, lengthy and labour-intensive searches and consultations with other institutions. DFO expects this to continue as the public's focus on environmental issues and stewardship increases. DFO routinely contacts other government institutions with whom they are consulting for an estimate of the expected turnaround time of the consultation.

Follow-up on the 2008–2009 recommendations

The OIC issued five recommendations to DFO with the 2008–2009 report card. The following summarizes the subsequent developments at the institution in response. (For the full text of the recommendations and the institution's response, go here http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2008-2009_29.aspx.)

1. With regard to senior management leadership related to the access function, DFO reported that senior executives have historically been supportive of the access function, and that their support is expected to continue. DFO also reported, however, that the Treasury Board Secretariat's Management Accountability Framework (MAF) has been instrumental in bringing senior management attention

to how the access program is managed. This level of engagement has contributed to the program's improved compliance. DFO's access to information coordinator now reports to the deputy minister through two levels—a senior assistant deputy minister and a director general, rather than just a director general.

2. DFO is closing in on an ideal deemed refusal rate, in line with the OIC's recommendation. This can raise concern about the overuse of extensions to ensure compliance.

DFO reported that about half of its consultations have to go through Privy Council Office–Cabinet Confidences Counsel, and therefore require extensions to complete. Nonetheless, DFO was able to complete the majority (78 percent) of its new requests within 30 days.

3. DFO used consultants to eliminate its backlog. It hopes to be able to continue to employ consultants for large and difficult requests that take analysts' time away from new requests. This should help keep a new backlog from forming.

Access to information workload, 2008–2009 to 2010–2011

This graph shows the sources of Fisheries and Oceans Canada's workload for the three fiscal years starting in 2008–2009. Comparing 2008–2009 to 2010–2011, the institution saw an 8-percent decrease in its workload. This is largely accounted for by the 35-percent decrease in the number of requests carried over from the previous fiscal year. The percentage changes for new requests (7-percent decrease) and consultation requests (6-percent increase) nearly cancel each other out. The number of pages reviewed for requests completed increased by 66 percent.
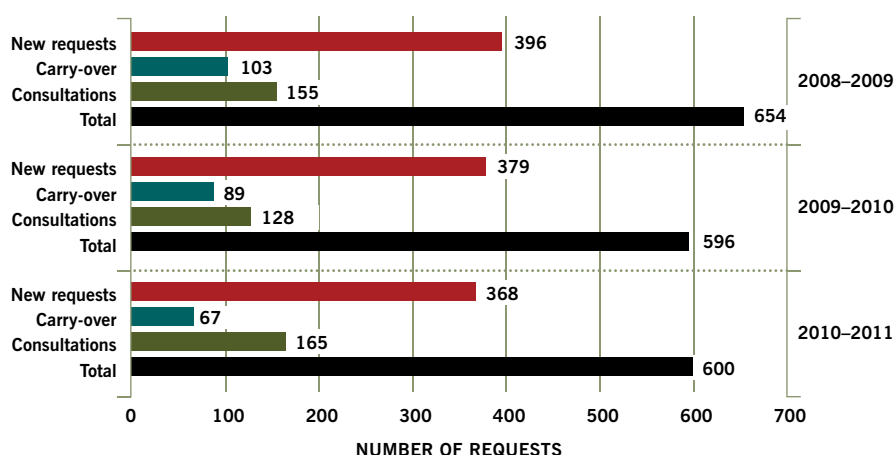
2008–2009
New requests 396
Carry-over 103
Consultations 155
Total 654

2009–2010
New requests 379
Carry-over 89
Consultations 128
Total 596

2010–2011
New requests 368
Carry-over 67
Consultations 165
Total 600

NUMBER OF REQUESTS

How long it took to complete new requests, 2008–2009 and 2010–2011

Between 2008–2009 and 2010–2011, the proportion of new access requests Fisheries and Oceans Canada completed within the timelines (30 days and extended) set out in the *Access to Information Act* increased from 92 percent to 99 percent. The remaining requests were completed late: 27 requests in 2008–2009 and 3 in 2010–2011.
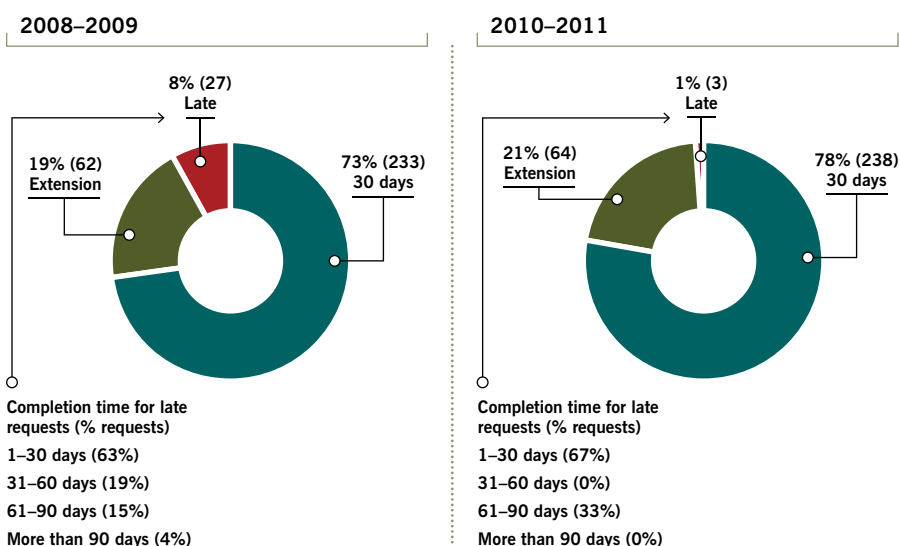
2008–2009

8% (27) Late
19% (62) Extension
73% (233) 30 days

Completion time for late requests (% requests)
1–30 days (63%)
31–60 days (19%)
61–90 days (15%)
More than 90 days (4%)

2010–2011

1% (3) Late
21% (64) Extension
78% (238) 30 days

Completion time for late requests (% requests)
1–30 days (67%)
31–60 days (0%)
61–90 days (33%)
More than 90 days (0%)

Number and length of time extensions taken, 2008–2009 and 2010–2011

This graph shows the number and length of the time extensions Fisheries and Oceans Canada (DFO) reported to have taken in 2008–2009 and 2010–2011. The institution supplied this information in the notices it sent to the Office of the Information Commissioner (OIC) under subsection 9(2) of the *Access to Information Act*. DFO met the OIC's 85-percent standard for acceptable performance in this area in both 2008–2009 and 2010–2011. The OIC notes DFO's increased use of extensions of 121–150 days and more than 180 days.
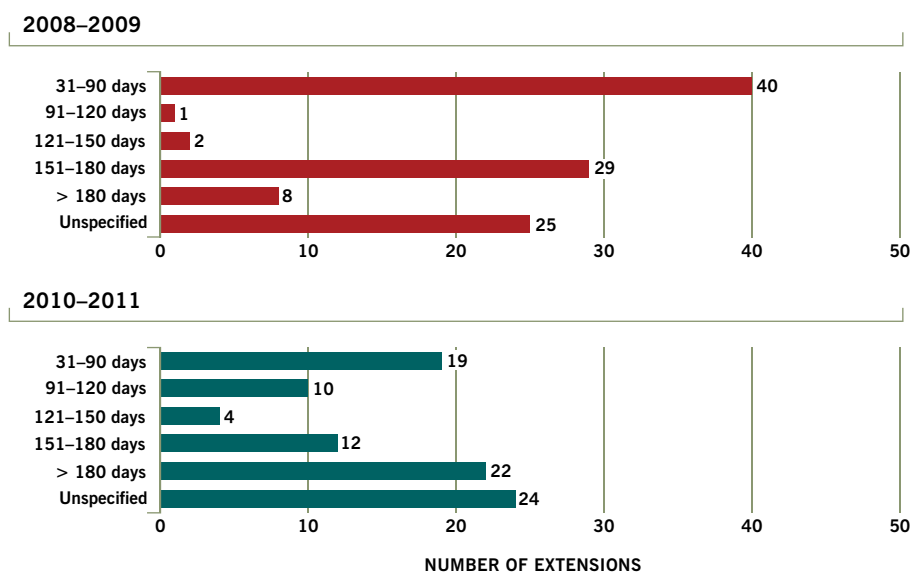
2008–2009

Length	Number
31–90 days	40
91–120 days	1
121–150 days	2
151–180 days	29
> 180 days	8
Unspecified	25

2010–2011

Length	Number
31–90 days	19
91–120 days	10
121–150 days	4
151–180 days	12
> 180 days	22
Unspecified	24

NUMBER OF EXTENSIONS

Number and outcome of delay-related complaints, 2008–2009 to 2010–2011

These graphs show the number and outcome of two types of complaint registered against Fisheries and Oceans Canada (DFO) in the three fiscal years starting in 2008–2009: complaints about deemed refusals (access to information requests that DFO delayed beyond the deadlines—30 days and extended—set out in the *Access to Information Act*) and complaints about DFO's use of the time extensions allowed under the Act. The number of complaints in both categories declined in 2010–2011 from already low levels in 2008–2009.
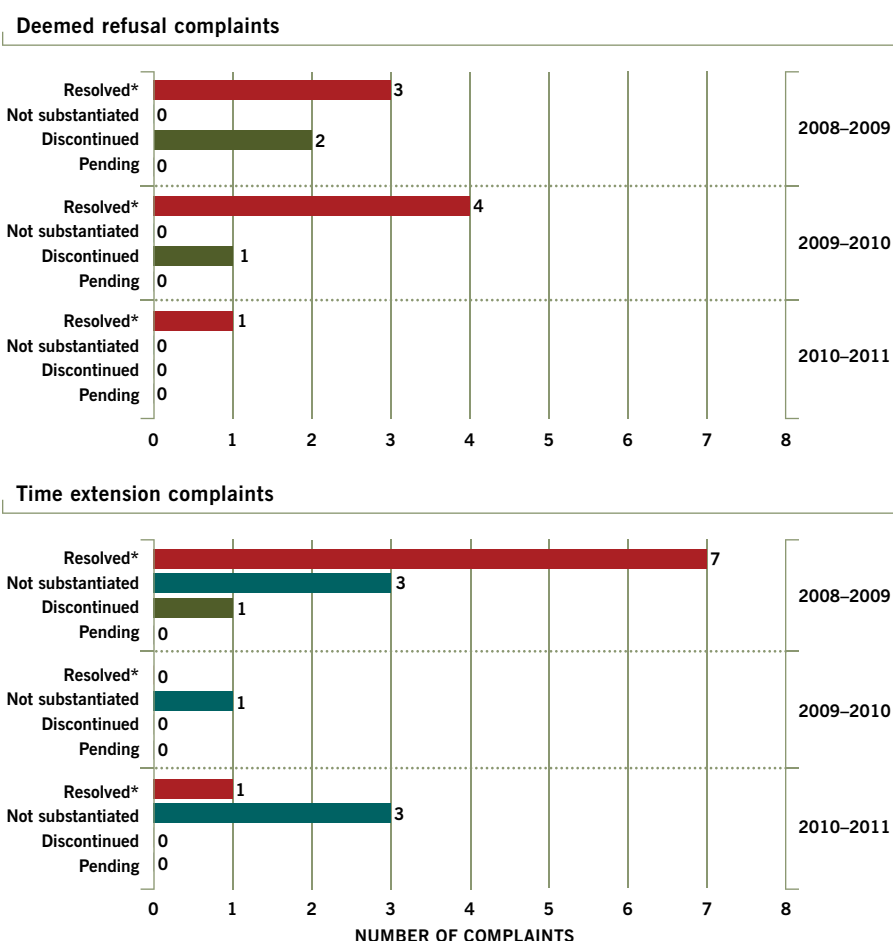
Deemed refusal complaints

	Outcome	Number
2008–2009	Resolved*	3
	Not substantiated	0
	Discontinued	2
	Pending	0
2009–2010	Resolved*	4
	Not substantiated	0
	Discontinued	1
	Pending	0
2010–2011	Resolved*	1
	Not substantiated	0
	Discontinued	0
	Pending	0

Time extension complaints

	Outcome	Number
2008–2009	Resolved*	7
	Not substantiated	3
	Discontinued	1
	Pending	0
2009–2010	Resolved*	0
	Not substantiated	1
	Discontinued	0
	Pending	0
2010–2011	Resolved*	1
	Not substantiated	3
	Discontinued	0
	Pending	0

NUMBER OF COMPLAINTS

* Resolved complaints are those that the Office of the Information Commissioner finds to have merit and that the institution resolves to the Commissioner's satisfaction.

Number and outcome of complaints received by the Office of the Information Commissioner, 2008–2009 to 2010–2011

	RESOLVED*	NOT SUBSTANTIATED	DISCONTINUED	PENDING	TOTAL
2008–2009					
Administrative	11	5	4	0	**20**
Refusals	1	4	7	1	**13**
Cabinet confidences	0	0	0	0	**0**
Total	**12**	**9**	**11**	**1**	**33**
2009–2010					
Administrative	4	1	2	0	**7**
Refusals	1	2	0	6	**9**
Cabinet confidences	0	0	0	2	**2**
Total	**5**	**3**	**2**	**8**	**18**
2010–2011					
Administrative	2	3	0	0	**5**
Refusals	1	0	2	3	**6**
Cabinet confidences	0	0	0	0	**0**
Total	**3**	**3**	**2**	**3**	**11**

This table sets out the number and outcome of the complaints the Office of the Information Commissioner (OIC) registered against Fisheries and Oceans Canada (DFO) in the three fiscal years starting in 2008–2009. The OIC has registered fewer complaints against DFO in each year since issuing the 2008–2009 report card.

* Resolved complaints are those that the OIC finds to have merit and that the institution resolves to the Commissioner's satisfaction.

4. Despite its ongoing concern about a lack of qualified personnel to draw from among the competitive access community, DFO is a well-resourced institution with sufficient personnel to take on its workload.

5. Records management continues to be a reported challenge at DFO; however, with training and new hardware and software, it does not appear to be hampering performance, since the institution was able to reduce its average completion time for new requests to 39 days.

2010–2011 recommendations

In light of DFO's outstanding performance, the OIC challenges it to assume a leadership role in the access to information community, and issues the following recommendations for continued improvement.

1. The Office of the Information Commissioner recommends that Fisheries and Oceans Canada maintain its strong performance from the efforts of its access to information office as well as the sustained support and oversight of its leadership.

   RESPONSE: *Agreed. Fisheries and Oceans Canada will strive to maintain its strong performance through the ongoing efforts of the access to information office. DFO senior management will continue to support access to information through sound leadership and oversight.*

ATIP will do this by continuing to offer ATIP training on a regular basis to all employees and will provide periodic messages through the departmental electronic bulletin to inform DFO staff of new developments in the ATIP field.

ATIP will also explore additional ways to provide training and increase awareness of ATIP by using Web 2.0 technology to provide training sessions, and by publishing, periodically, responses to frequently asked questions in the weekly departmental electronic bulletin/newsletter.

Finally, we will continue to inform senior management of ATIP developments, and of our effectiveness in meeting deadlines by making periodic presentations to the Departmental Management Board.

2. The Office of the Information Commissioner recommends that Fisheries and Oceans Canada report on its progress implementing this recommendation in its annual report to Parliament on access to information operations.

RESPONSE: *Agreed. Fisheries and Oceans Canada will include a section devoted to the Office of the Information Commissioner's 2010–2011 report card findings in the 2011–2012 departmental annual report to Parliament on the administration of the* Access to Information Act*.*

Foreign Affairs and International Trade Canada

Foreign Affairs and International Trade Canada (DFAIT) is responsible for Canada's foreign policy and all matters relating to Canada's external affairs. DFAIT's specific areas of responsibility include international peace and security, global trade and commerce, diplomatic and consular relations, administration of the foreign service and Canada's missions abroad, and development of international law and its application to Canada.

Assessment
(Received a "Red Alert" in 2008–2009)

D

- DFAIT's access performance in 2010–2011 was such that the Office of the Information Commissioner (OIC) was able to rate it against its standard criteria, unlike in 2008–2009. A deemed refusal rate of 27.8 percent means that DFAIT receives a "D" grade for the year, but this rate reflects a more than 50-percent decrease from the high of 59.6 percent in 2008–2009.

- DFAIT also improved its performance in a number of other regards, including nearly eliminating its backlog and receiving nearly 70 percent fewer complaints in 2010–2011 compared to 2008–2009.

- DFAIT satisfactorily responded to all four of the OIC's 2008–2009 recommendations. However, DFAIT and the OIC are concerned about the stability of the resources for the access function. As a result, the OIC has issued two recommendations in this area, along with three others to prompt further improvements in performance (see page 80).

QUICK FACTS	2008–2009	2010–2011
Number of requests carried over from previous fiscal year	459	**389**
Number of new requests	665	**798**
Number of requests completed	739	**766**
Number of pages reviewed for requests completed	34,311	**204,175**
Deemed refusal rate	59.6%*	**27.8%***
Average number of days to complete a request	163	**242**
Average number of days to complete a request received in 2010–2011	n/a	**94**
Number of consultation requests received	1,039	**1,049**
Percentage of required extension notices submitted to the OIC	>85%	**>85%**
Number of complaints registered with the OIC	93	**31**
Number of complaints the OIC resolved	33**	**7****
Number of full-time equivalents in access to information operations, as of the end of the fiscal year	24.9	**27.68**

FOLLOW-UP ON 2008–2009 RECOMMENDATIONS

Resources .... Met expectations

Leadership .... Met expectations

Consultations .... Met expectations

Complaints .... Met expectations

See report card text for details. For the full text of the recommendations, as well as the institution's initial response and October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_8.aspx.

* Percentage of carried over and new requests delayed beyond the deadlines (30 days and extended)) set out in the *Access to Information Act*. (See Appendix B for the formula the OIC used to calculate this rate.)

** A complaint is resolved when the OIC finds it has merit and the institution resolves it to the Commissioner's satisfaction. The number of complaints reported here is current as of November 2011. As a result, the figure for 2008–2009 may differ from what appeared in the 2008–2009 report card.

Report card

The access performance of Foreign Affairs and International Trade Canada (DFAIT) in 2010–2011 was such that the Office of the Information Commissioner (OIC) was able to rate it against its standard criteria, unlike in 2008–2009. A deemed refusal rate of 27.8 percent means that DFAIT receives a "D" grade for the year, but this rate reflects a more than 50-percent decrease from the high of 59.6 percent in 2008–2009.

DFAIT also improved its performance in a number of other areas. It reduced its backlog of long-standing requests from 400 to 50, and expected to complete the remaining files in the fall of 2011. This increased the average completion time for requests to 242 days; however, if only the requests received and completed in 2010–2011 are considered, the figure is 94 days.

DFAIT reported having lowered the turnaround times for internal consultations with its consulates and other countries around the world from 120 days to 60 days by using secure email rather than diplomatic bags for hard copies of requests and records.

DFAIT also completed overdue requests more quickly after the deadline than it did in 2008–2009 (78 percent were completed within 60 days, compared to 62 percent in 2008–2009).

The OIC received only one third the amount of complaints against DFAIT in 2010–2011 as it did in 2008–2009. The nature of the complaints has changed as well. In 2010–2011, complaints were almost evenly split between administrative and refusal complaints, whereas in 2008–2009 they were overwhelmingly administrative. Also encouraging is the reported mutual sense of better collaboration between the OIC and DFAIT in resolving complaints.

All these improvements notwithstanding, the OIC is gravely concerned that chronic operating pressures continue to place DFAIT at serious risk of relapse into very poor performance.

The coordinator reported that one of DFAIT's most pressing issues is its inability to attract qualified and experienced employees. A recent staffing process took one year to complete and yielded only a handful of qualified candidates, several of whom then received counter offers from their home institutions. That left one candidate who was hired at the PM-04 level, but there are 10 more positions that DFAIT would like to fill. However, DFAIT has an internal career progression program that has yielded some success for retaining employees.

Access officials report that the staffing situation may jeopardize the $2.7 million in increased funding that was allotted to improve access performance in the wake of the 2008–2009 report card. DFAIT had provided the additional resources during a previous internal strategic review, when funding was being cut in many other areas of the institution. Now, with the entire federal government undergoing a review, the access coordinator fears that the office's inability to use the funding to acquire new staff may threaten it. DFAIT's assistant deputy minister responsible for access to information, however, told the House of Commons Standing Committee on Access to Information, Privacy and Ethics in November 2010 that access funding would not be diminished.

Consultations from other government institutions continue to significantly outnumber requests. As a result, DFAIT is considering, based on a consultant's recommendation, directing consultations to other countries' embassies and consulates in Ottawa, rather than having to send records to international locations. To help achieve this, DFAIT has introduced a senior position in the access to information office into which foreign service personnel rotate. This function is also intended to provide a liaison for foreign service colleagues who are reported to have reservations about the access to information process, and may, as a result, be a source of delay.

DFAIT access officials delivered training to more than 1,300 institution staff during 2010–2011, yet they report a persistent lack of awareness about access to information processes. DFAIT has also implemented an intake team that identifies requests that can be easily processed, ensuring that all request elements are complete before assigning it to an analyst.

DFAIT took extensions for 31 percent of its new requests, and the OIC is concerned that the institution is taking them systematically to compensate for issues in its own access office, not for the reasons prescribed in the legislation. The average length of the extensions was 131 days. DFAIT reported that Day 20 in the response period is the decision date for requests to ensure that they do not go into deemed refusal. This suggests to the OIC a potentially inappropriate application of extensions.

The OIC is also concerned that it was unable to resolve an investigation into DFAIT's standard practice of charging fees on requests with more than 500 responsive pages. Over the course of the investigation, the OIC had recommended that DFAIT cease charging fees for search and preparation time of electronic records, and instead exercise discretion when levying them. The OIC's position is that DFAIT's practice is, among other things, contrary to duty to assist obligations and the spirit of the Act.

Access to information workload, 2008–2009 to 2010–2011

This graph shows the sources of Foreign Affairs and International Trade Canada's workload for the three fiscal years starting in 2008–2009. Comparing 2008–2009 to 2010–2011, the institution saw a 3-percent increase in its workload. However, the number of consultation requests it received in 2010–2011 once again eclipsed the number of new requests (by nearly one third). The number of pages reviewed for requests completed increased by nearly six times.
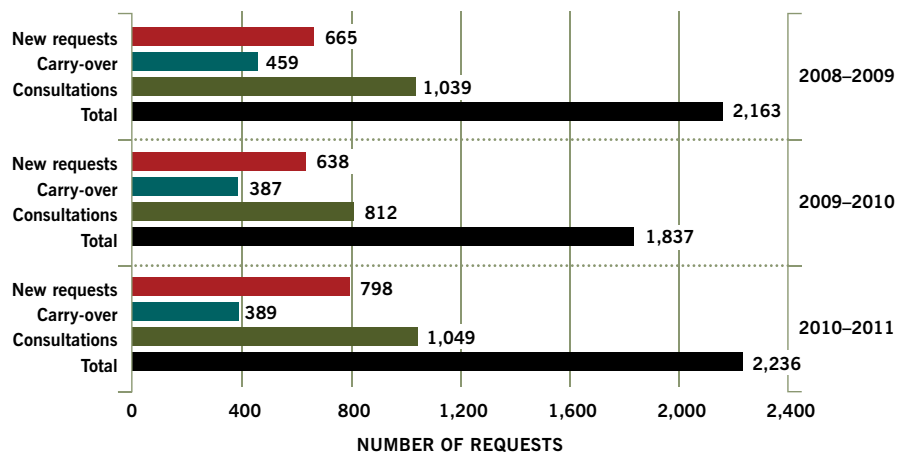
How long it took to complete new requests, 2008–2009 and 2010–2011

Between 2008–2009 and 2010–2011, the proportion of new access requests Foreign Affairs and International Trade Canada (DFAIT) completed within the timelines (30 days and extended) set out in the *Access to Information Act* increased from 63 percent to 90 percent. The remaining requests were completed late: 163 requests in 2008–2009 and 46 in 2010–2011. DFAIT was able to complete half of its late requests within 30 days after the deadline in 2010–2011, up from 42 percent in 2009–2009.
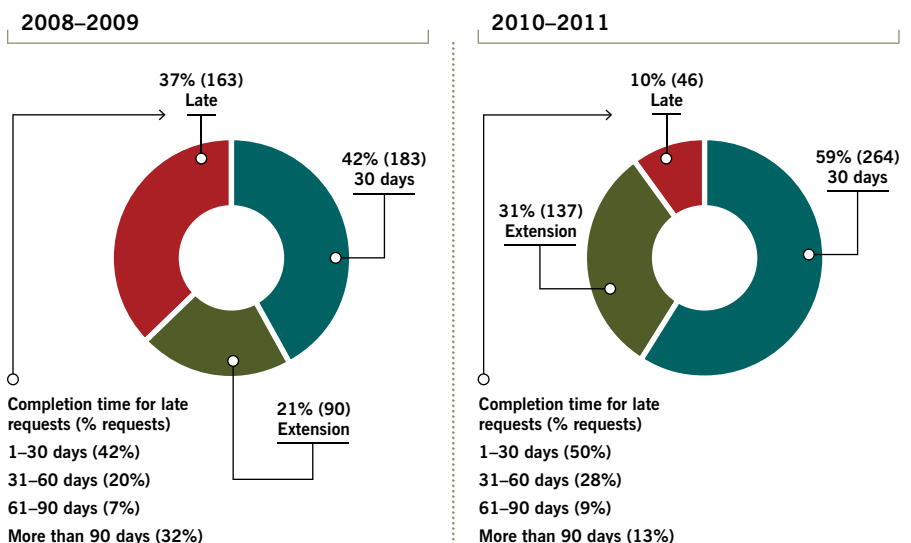
Number and length of time extensions taken, 2008–2009 and 2010–2011

This graph shows the number and length of the time extensions Foreign Affairs and International Trade Canada (DFAIT) reported to have taken in 2008–2009 and 2010–2011. The institution supplied this information in the notices it sent to the Office of the Information Commissioner (OIC) under subsection 9(2) of the *Access to Information Act*. DFAIT met the OIC's 85-percent standard for acceptable performance in this area in both 2008–2009 and 2010–2011.

2008–2009

31–90 days	96
91–120 days	66
121–150 days	19
151–180 days	27
> 180 days	67
Unspecified	9

2010–2011

31–90 days	93
91–120 days	24
121–150 days	19
151–180 days	46
> 180 days	64
Unspecified	28
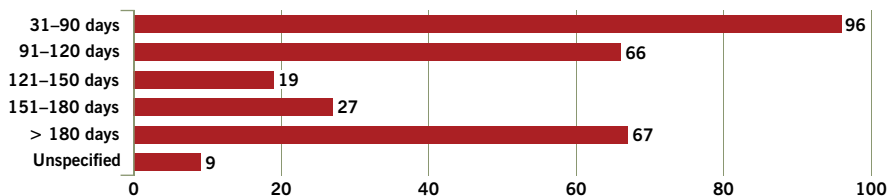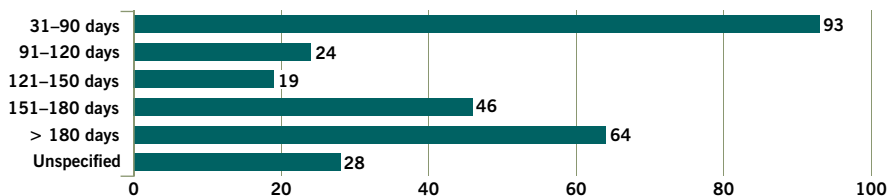
NUMBER OF EXTENSIONS

Number and outcome of delay-related complaints, 2008–2009 to 2010–2011

These graphs show the number and outcome of two types of complaint registered against Foreign Affairs and International Trade Canada (DFAIT) in the three fiscal years starting in 2008–2009: complaints about deemed refusals (access to information requests that DFAIT delayed beyond the deadlines—30 days and extended—set out in the *Access to Information Act*) and complaints about DFAIT's use of the time extensions allowed under the Act. The decrease in both deemed refusal and time extension complaints from 2008–2009 to 2010–2011 (and particularly the drop in time extension complaints from 2009–2010) reflects the overall two-thirds decrease in complaints against DFAIT over the same period.
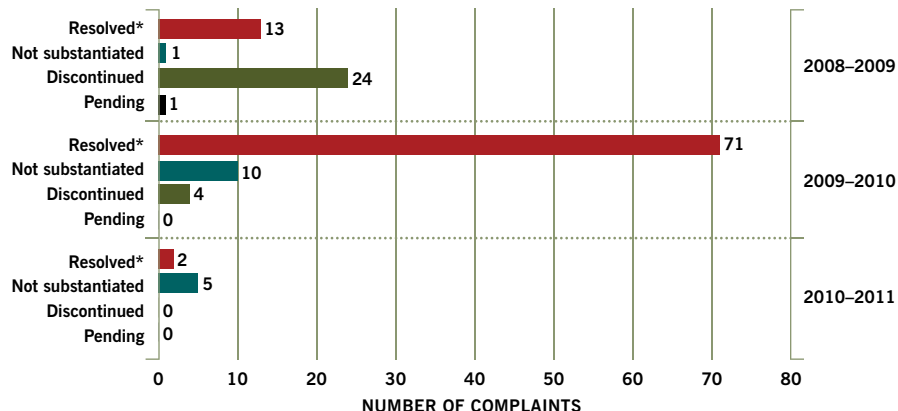
Deemed refusal complaints

2008–2009
Resolved*	11
Not substantiated	1
Discontinued	7
Pending	0

2009–2010
Resolved*	4
Not substantiated	0
Discontinued	1
Pending	0

2010–2011
Resolved*	0
Not substantiated	1
Discontinued	1
Pending	1

Time extension complaints

2008–2009
Resolved*	13
Not substantiated	1
Discontinued	24
Pending	1

2009–2010
Resolved*	71
Not substantiated	10
Discontinued	4
Pending	0

2010–2011
Resolved*	2
Not substantiated	5
Discontinued	0
Pending	0

NUMBER OF COMPLAINTS

*   Resolved complaints are those that the Office of the Information Commissioner finds to have merit and that the institution resolves to the Commissioner's satisfaction.

Number and outcome of complaints received by the Office of the Information Commissioner, 2008–2009 to 2010–2011

	RESOLVED*	NOT SUBSTANTIATED	DISCONTINUED	PENDING	TOTAL
2008–2009					
Administrative	29	8	33	5	**75**
Refusals	4	3	3	7	**17**
Cabinet confidences	0	1	0	0	**1**
Total	**33**	**12**	**36**	**12**	**93**
2009–2010					
Administrative	78	13	8	2	**101**
Refusals	1	3	15	15	**34**
Cabinet confidences	0	0	1	0	**1**
Total	**79**	**16**	**24**	**17**	**136**
2010–2011					
Administrative	4	6	3**	1	**14**
Refusals	3	1	3**	10	**17**
Cabinet confidences	0	0	0	0	**0**
Total	**7**	**7**	**4**	**11**	**31**

This table sets out the number and outcome of the complaints the Office of the Information Commissioner (OIC) registered against Foreign Affairs and International Trade Canada (DFAIT) in the three fiscal years starting in 2008–2009. In 2010–2011, the OIC registered 69 percent and 79 percent fewer complaints against DFAIT than in 2008–2009 and 2009–2010, respectively. These decreases included large drops in the number of administrative complaints, among which are those regarding deemed refusals and time extensions.

* Resolved complaints are those that the OIC finds to have merit and that the institution resolves to the Commissioner's satisfaction.

** The OIC began using new disposition categories in 2010–2011. That year, there was one fees complaint and one refusal complaint in the new Settled category, which comprises complaints about minor errors, settled to the Commissioner's satisfaction without a finding. For reporting purposes, these complaints were placed in the Discontinued category.

In 2008–2009, the OIC recommended that DFAIT stop counselling other institutions to close files with potential section 13 (information gained in confidence from a foreign state) or section 15 (international affairs and defence) exemptions. DFAIT reported that it has stopped the practice but emphasized that the onus to follow up on the file now rests with the consulting institution as a result. Given DFAIT's central role in the access to information regime as a whole and the impact of its performance on responding to consultation requests, the OIC's position is that DFAIT should closely monitor the progress of all incoming consultations.

Branch performance reports at executive level meetings are reported to facilitate generally better rates of retrieval and turnaround, as does the fact that access compliance rates factor into performance management agreements. DFAIT access officials could not confirm whether anyone has ever not qualified for bonus pay as a result of poor access-related performance.

Follow-up on the 2008–2009 recommendations

The OIC issued four recommendations to DFAIT with the 2008–2009 report card. The following summarizes the subsequent developments at the institution in response. (For the full text of the recommendations, the institution's response and October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_8.aspx.)

1. DFAIT senior management provided a much-needed infusion of resources to the access office in response to the OIC's 2008–2009 recommendation. However, DFAIT access officials report that this funding may be cut in light of DFAIT's inability to fill vacant positions. Consequently, the OIC has re-issued this recommendation.

2. DFAIT leadership took corrective steps to improve the performance of its access to information office, including instituting monthly results reports at the executive level, allocating $2.7 million in permanent funding (at a time when the institution was under strategic review of resources) and incorporating access to information performance into executives' performance management agreements.

3. DFAIT reported that it has stopped counselling other institutions to close files subject to consultations related to sections 13 and 15 of the *Access to Information Act*, in line with the OIC's recommendation.

4. In the OIC's view, DFAIT has considerably improved how it works with the OIC to resolve complaints, as per the OIC's recommendation.

2010–2011 recommendations

Given DFAIT's and the OIC's concerns about the resourcing situation at DFAIT, the OIC is re-issuing two recommendations in this area, along with additional ones to prompt further improvements in performance.

1. The Office of the Information Commissioner recommends that the Ministers and the Deputy Ministers of Foreign Affairs and International Trade Canada continue to demonstrate leadership by ensuring the proper level of management oversight of performance, both in the access office as well as in the program areas, in order to comply fully with the *Access to Information Act*.

   RESPONSE: *DFAIT will continue to share branch and bureau performance data on a regular basis with senior officials across the department.*

   Access to Information Act *performance issues are regularly signalled to senior managers in program areas in order to continually improve response and turnaround times.*

2. The Office of the Information Commissioner recommends that the Ministers and the Deputy Ministers devote the necessary personnel and financial resources, both in the access office as well as in the program areas to be able to deal with new requests in order to comply fully with the *Access to Information Act*.

   RESPONSE: *DFAIT has devoted significant human and financial resources to the Access to Information and Privacy Protection division. Significant challenges exist with respect to staffing and DFAIT has completed an external hiring process and continues to attract participants in the ATIP professional development program, which trains and develops junior analysts to become senior analysts (i.e. PM-02-03-04).*

   Consideration of the necessary human and financial resources to ensure that program areas are sufficiently resourced to meet all of their responsibilities, including to comply with the Access to Information Act, *is ongoing.*

3. The Office of the Information Commissioner recommends that the Ministers and the Deputy Ministers devote the necessary personnel and financial resources, both in the access office as well as in the program areas to be able to deal with consultations from other government institutions in order to comply fully with the *Access to Information Act*.

   RESPONSE: *DFAIT has a dedicated team of analysts focused solely on consultations from other government institutions. DFAIT also devotes resources to train other government institutions on how to improve their decision making on files they will need to send for consultation so that they can be handled efficiently and expeditiously.*

   Consideration of the necessary human and financial resources to ensure that program areas are sufficiently resourced to meet all of their responsibilities, including to comply with the Access to Information Act, *is ongoing.*

4. The Office of the Information Commissioner recommends that Foreign Affairs and International Trade Canada continue to reduce its deemed refusal rate to zero.

   RESPONSE: *DFAIT will continue to work towards reducing its deemed refusal rate to zero. Substantial progress has been made in the current fiscal year.*

5. The Office of the Information Commissioner recommends that Foreign Affairs and International Trade Canada report on its progress implementing these recommendations in its annual report to Parliament on access to information operations.

   RESPONSE: *DFAIT commits to reporting progress on implementing these recommendations as soon as possible.*

Health Canada

Health Canada helps Canadians maintain and improve their health. In partnership with provincial and territorial governments, Health Canada develops health policy, enforces regulations, promotes disease prevention and enhances healthy living for all Canadians. It also ensures that health services are available and accessible to First Nations and Inuit communities.

Assessment
(Received a D in 2008–2009)

C

- Health Canada improved its 2010–2011 performance in some areas but not others. Its deemed refusal rate was 15.8 percent, and it completed 62 percent more files than it did in 2008–2009. However, because of an increase in new requests, the number of cases carried over into 2011–2012 grew from previous years. The number of complaints against Health Canada also increased in 2010–2011.

- Health Canada has implemented a plan to improve access operations and reports that it is starting to show results. Nonetheless, the Office of the Information Commissioner (OIC) remains concerned about the poor state of records management and the institution's continued reliance on extensions for searches through records.

- While Health Canada's overall performance improved, the institution did not satisfactorily implement two of the OIC's six 2008–2009 recommendations. There is still room for improvement. As a result, the OIC is re-issuing outstanding recommendations, along with several new ones (see page 85).

QUICK FACTS	2008–2009	2010–2011
Number of requests carried over from previous fiscal year	359	**545**
Number of new requests	1,158	**1,602**
Number of requests completed	950	**1,535**
Number of pages reviewed for requests completed	341,253	**467,172**
Deemed refusal rate	19.3%*	**15.8%***
Average number of days to complete a request	132	**144**
Average number of days to complete a request received in 2010–2011	n/a	**60**
Number of consultation requests received	204	**243**
Percentage of required extension notices submitted to the OIC	<85%	**>85%**
Number of complaints registered with the OIC	43	**81**
Number of complaints the OIC resolved	24**	**42***
Number of full-time equivalents in access to information operations, as of the end of the fiscal year	19.5	**20.44**

FOLLOW-UP ON 2008–2009 RECOMMENDATIONS

Leadership.. Met expectations
Delegation order.. Met expectations
Backlog .... Met expectations
Time extensions..Did not meet expectations
Records management ....Did not meet expectations
Deemed refusal rate.. Met expectations

See report card text for details. For the full text of the recommendations, as well as the institution's initial response and October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_9.aspx.

* Percentage of carried over and new requests delayed beyond the deadlines (30 days and extended) set out in the *Access to Information Act*. (See Appendix B for the formula the OIC used to calculate this rate.)

** A complaint is resolved when the OIC finds it has merit and the institution resolves it to the Commissioner's satisfaction. The number of complaints reported here is current as of November 2011. As a result, the figure for 2008–2009 may be different from what appeared in the 2008–2009 report card.

Report card

Health Canada improved its 2010-2011 performance in some areas but not in others. Its deemed refusal rate was 15.8 percent, down from 19.3 percent in 2008–2009. With nearly the same number of staff, Health Canada completed 62 percent more files than it did in 2008–2009. However, because of an increase in new requests, the number of cases carried over into 2011–2012 grew from that carried over into 2008–2009. The number of complaints against Health Canada also increased in 2010–2011 (administrative and refusal complaints each more than doubled).

Health Canada was able to reduce its backlog of long-standing requests by almost half, clearing all but one of the remaining files from 2007. However, it fell well short of its goal to completely clear the backlog by the end of 2010–2011, and a very dated inventory remains. Of additional concern is that almost half of the new files that were overdue in 2010–2011 took Health Canada more than 90 days after the deadline to complete.

Following the 2008–2009 report card, when Health Canada received a "D" grade, the institution launched the ATIP Transformation Action Plan in an attempt to turn its performance around. Additionally, new leadership at Health Canada is reported to have made efforts to bring access to information into sharper focus across the institution. In its October 2010 progress report to the Office of the Information Commissioner (OIC), Health Canada reported seeing progress against the milestones and targets set out in the plan. Subsequently, there has been even further progress toward clearing the backlog, access officials said, with a team dedicated to eliminating it.

Integration of access to information into the performance agreements of certain senior executives has improved turnaround time for record retrieval from program areas. Nonetheless, and despite repeated promises for improvement to both the House of Commons Standing Committee on Access to Information, Privacy and Ethics and the OIC, Health Canada continues to face significant information management challenges. There are many records that are simply not available, even though they reportedly should be. Health Canada's access to information office also reports

serious concerns about centrally managed records, and the ability to find requested records as quickly as possible using the system. Health Canada continues to take many extensions for searching through its holdings (138 for fewer than 30 days and 215 for more than 30 days).

On the OIC's 2010–2011 report card questionnaire, the institution mentioned a "new communication and notification" procedure that replaced the former HI-SENS approval process, and which is reported to respect the delegation order. Responsible offices are notified of requests of interest in order to prepare for further public enquiry, but access officials said this step does not hold up the release.

Health Canada deals with many complex requests that involve third-party information, as evidenced by the large number of extensions it takes to consult with third parties. The OIC is concerned, in some instances, on two fronts: that Health Canada continues to take extensions for the resulting consultations consecutively rather than concurrently, as the *Access to Information Act* intends; and that Health Canada does not respect the timelines set out in the Act for the conduct of those consultations, according to certain OIC investigations into specific complaints.

Follow-up on the 2008–2009 recommendations

The OIC issued six recommendations to Health Canada with the 2008–2009 report card. The following summarizes the subsequent developments at the institution in response. (For the full text of the recommendations, the institution's response and October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_9.aspx.)

1. Senior management has begun to focus on the access to information function, and a transformation plan has been established to improve performance. This meets the requirements of the OIC's recommendation.

2. Health Canada implemented a new communication and notification procedure that is reported to respect the delegation order and not hold up the release of information.

3. Health Canada decreased its backlog of long-standing requests by 45 percent. This is not the reduction Health Canada was aiming for; however, it is a significant drop in its inventory.

4. The OIC is still concerned about Health Canada's use of time extensions. The OIC is re-issuing its recommendation in this regard.

5. Records management continues to be a challenge at Health Canada, despite the OIC's recommendation that this had to be addressed in order to ensure quick retrieval of records. The OIC is re-issuing its recommendation in this regard.

6. Health Canada reduced its deemed refusal rate by nearly four percentage points in 2010–2011 but, at 15.8 percent, the rate should come down more. The OIC has re-issued its recommendation in this regard.

Access to information workload, 2008–2009 to 2010–2011

This graph shows the sources of Health Canada's workload for the three fiscal years starting in 2008–2009. Comparing 2008–2009 to 2010–2011, the institution saw a 38-percent increase in its workload. This was accounted for by increases in all three categories of incoming work: new requests (38 percent), requests carried over from the previous fiscal year (51 percent) and consultation requests (19 percent). The number of pages reviewed for requests completed increased by 37 percent.
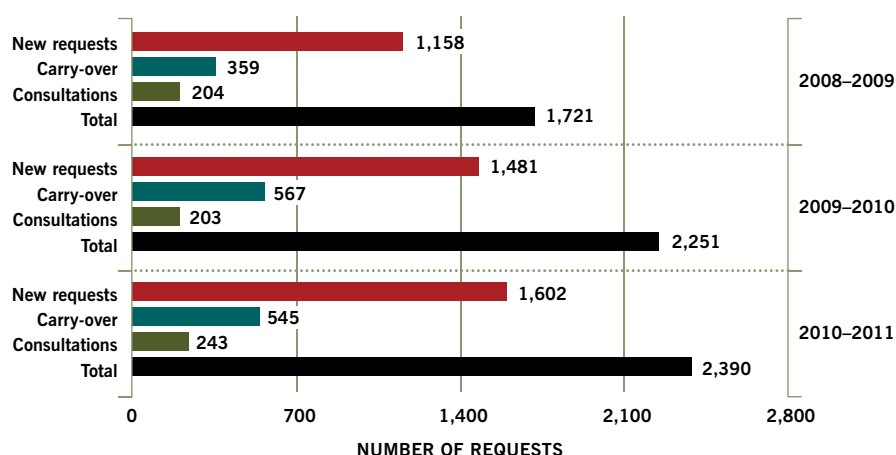
2008–2009
New requests: 1,158
Carry-over: 359
Consultations: 204
Total: 1,721

2009–2010
New requests: 1,481
Carry-over: 567
Consultations: 203
Total: 2,251

2010–2011
New requests: 1,602
Carry-over: 545
Consultations: 243
Total: 2,390

NUMBER OF REQUESTS

How long it took to complete new requests, 2008–2009 and 2010–2011

Between 2008–2009 and 2010–2011, the proportion of new access requests Health Canada completed within the timelines (30 days and extended) set out in the *Access to Information Act* rose from 79 percent to 91 percent. The remaining requests were completed late: 142 requests in 2008–2009 and 97 in 2010–2011. The Office of the Information Commissioner is concerned that the number of requests that were late by more than 30 days increased by 3 percentage points between 2008–2009 and 2010–2011, and, more particularly, that the proportion of overdue requests closed in more than 90 days after the deadline grew from 39 percent in 2008–2009 to 45 percent in 2010–2011.
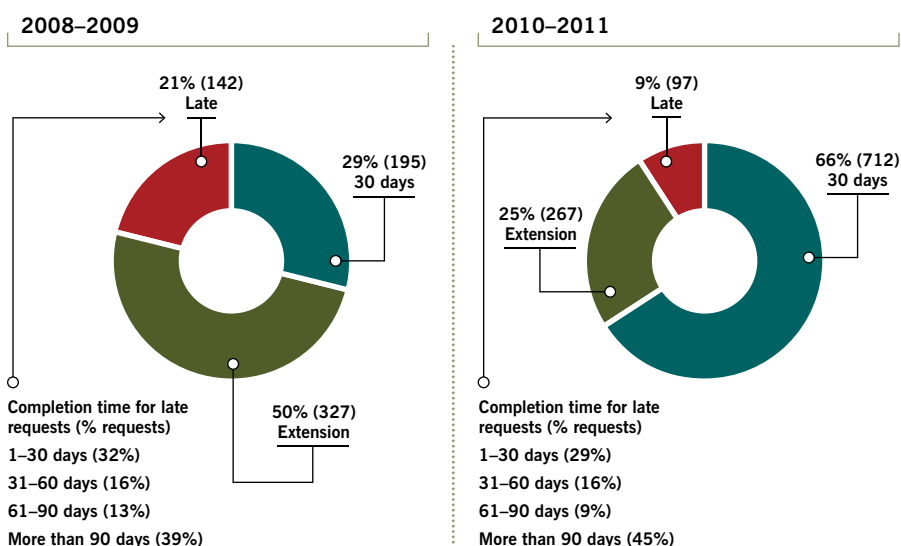
2008–2009

21% (142) Late
29% (195) 30 days
50% (327) Extension

Completion time for late requests (% requests)
1–30 days (32%)
31–60 days (16%)
61–90 days (13%)
More than 90 days (39%)

2010–2011

9% (97) Late
66% (712) 30 days
25% (267) Extension

Completion time for late requests (% requests)
1–30 days (29%)
31–60 days (16%)
61–90 days (9%)
More than 90 days (45%)

Number and length of time extensions taken, 2008–2009 and 2010–2011

This graph shows the number and length of the time extensions Health Canada reported to have taken in 2008–2009 and 2010–2011. The institution supplied this information in the notices it sent to the Office of the Information Commissioner (OIC) under subsection 9(2) of the *Access to Information Act*. Health Canada submitted fewer than 85 percent of the required notices in 2008–2009, at which point the OIC issued a recommendation that Health Canada improve its performance in this area. In 2010–2011, Health Canada submitted more than 85 percent of the required notices. The OIC notes with concern the significant increase in the number of extensions Health Canada took in 2010–2011 of unknown duration. Institutions must include the length of the extensions on the notices they submit.
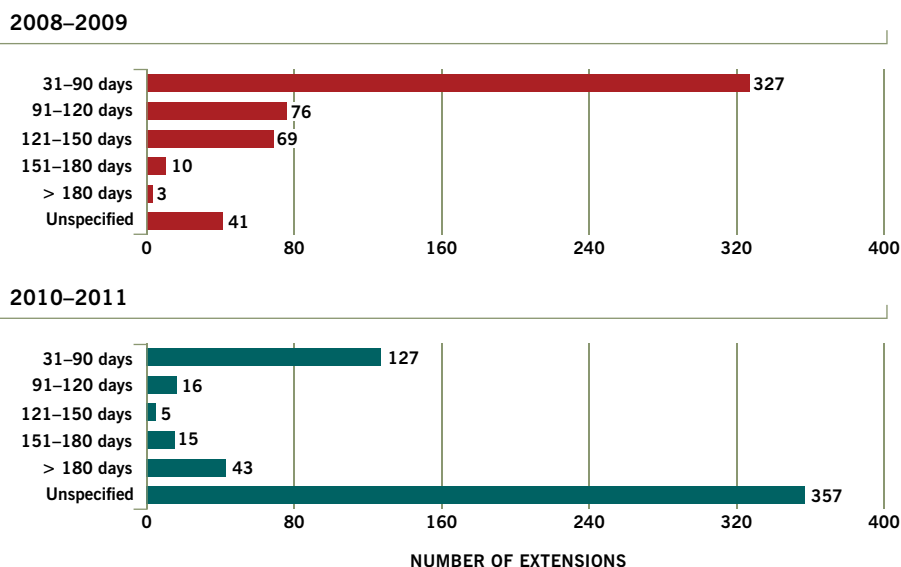
2008–2009

Length	Number of extensions
31–90 days	327
91–120 days	76
121–150 days	69
151–180 days	10
> 180 days	3
Unspecified	41

2010–2011

Length	Number of extensions
31–90 days	127
91–120 days	16
121–150 days	5
151–180 days	15
> 180 days	43
Unspecified	357

NUMBER OF EXTENSIONS

Number and outcome of delay-related complaints, 2008–2009 to 2010–2011

These graphs show the number and outcome of two types of complaint registered against Health Canada in the three fiscal years starting in 2008–2009: complaints about deemed refusals (access to information requests that Health Canada delayed beyond the deadlines—30 days and extended—set out in the *Access to Information Act*) and complaints about Health Canada's use of the time extensions allowed under the Act. The number of deemed refusal complaints against Health Canada increased by 50 percent. Over the same period, the number of time extension complaints fell from 11 to 4.
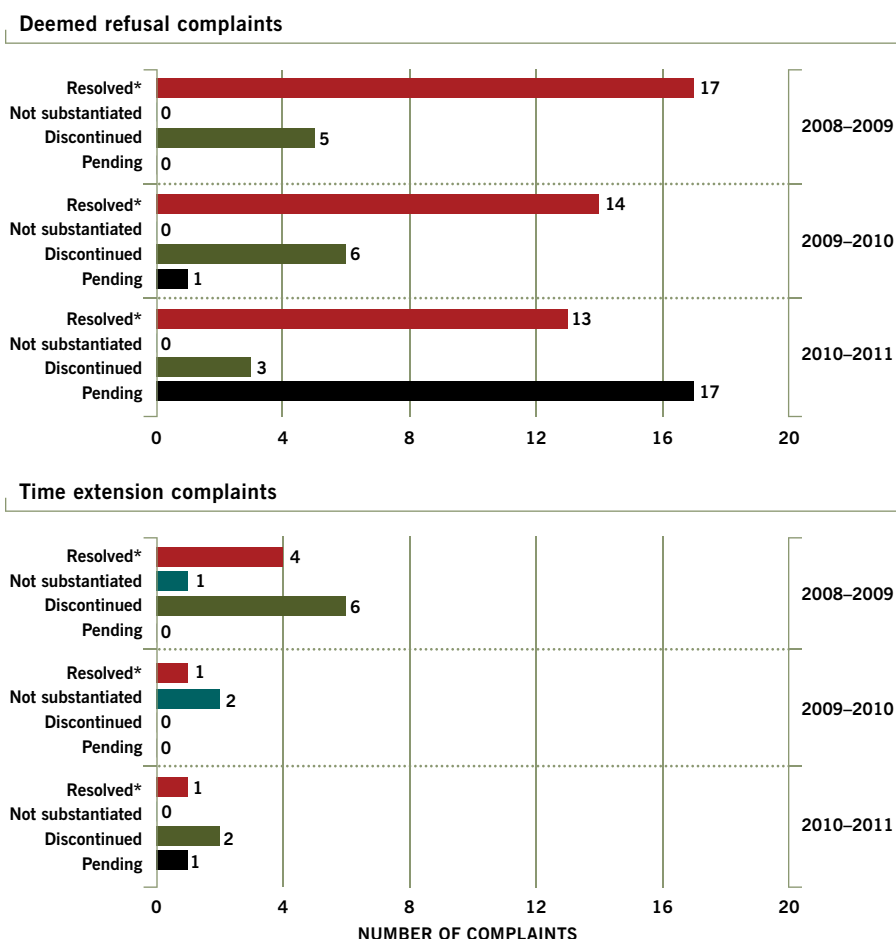
Deemed refusal complaints

Outcome	2008–2009	2009–2010	2010–2011
Resolved*	17	14	13
Not substantiated	0	0	0
Discontinued	5	6	3
Pending	0	1	17

Time extension complaints

Outcome	2008–2009	2009–2010	2010–2011
Resolved*	4	1	1
Not substantiated	1	2	0
Discontinued	6	0	2
Pending	0	0	1

NUMBER OF COMPLAINTS

* Resolved complaints are those that the Office of the Information Commissioner finds to have merit and that the institution resolves to the Commissioner's satisfaction.

Number and outcome of complaints received by the Office of the Information Commissioner, 2008–2009 to 2010–2011

	RESOLVED*	NOT SUBSTANTIATED	DISCONTINUED	PENDING	TOTAL
2008–2009					
Administrative	22	1	11	0	**34**
Refusals	1	3	2	2	**8**
Cabinet confidences	1	0	0	0	**1**
Total	**24**	**4**	**13**	**2**	**43**
2009–2010					
Administrative	15	4	9	1	**29**
Refusals	2	1	2	2	**7**
Cabinet confidences	0	0	0	1	**1**
Total	**17**	**5**	**11**	**4**	**37**
2010–2011					
Administrative	37	1	6	19	**63**
Refusals	5	1	6	6	**18**
Cabinet confidences	0	0	0	0	**0**
Total	**42**	**2**	**12**	**25**	**81**

This table sets out the number and outcome of the complaints the Office of the Information Commissioner (OIC) registered against Health Canada in the three fiscal years starting in 2008–2009. The overall number of complaints nearly doubled between 2008–2009 and 2010–2011. In both the administrative and refusal categories, the number of complaints decreased between 2008–2009 and 2009–2010 but then increased by 117 percent and 125 percent, respectively, in 2010–2011.

* Resolved complaints are those that the OIC finds to have merit and that the institution resolves to the Commissioner's satisfaction.

2010–2011 recommendations

While Health Canada's overall performance improved, it did not satisfactorily implement two of the OIC's six 2008–2009 recommendations. A "C" grade is tenuous and indicates that there is still room for improvement. As a result, the OIC is re-issuing outstanding recommendations, along with a number of new ones.

1. The Office of the Information Commissioner recommends that the Minister of Health and the Deputy Minister of Health Canada demonstrate leadership to support the improvement efforts of the access to information office.

   RESPONSE: *Health Canada agrees with this recommendation and is committed to ensuring that the department significantly improves how it responds to access to information requests.*

   In an effort to better serve the public and respond within legislative timelines, HC will continue to implement the Access to Information (ATI) Transformation Action Plan, approved by HC's Executive Committee in November 2010, and to focus on the areas identified by the OIC as requiring further attention. The department is committed to continuous improvement in respect to ATI requests.

Over the 2011–2012 fiscal year, HC's compliance rate was up from 81.2% in 2009–2010 to 91.5%, while the number of complaints declined from over 5% to 3.6%. These positive results were also achieved at a time when HC received 1,763 requests and analyzed over 600,000 pages of information.

2. The Office of the Information Commissioner recommends that any internal notification procedure related to an impending release not reduce the amount of information that is disclosed or affect the timeliness of the disclosure.

   RESPONSE: *HC agrees with this recommendation.*

   The internal notification procedure was revised in 2011–2012 and is based on the best practices identified by the OIC. The new procedure enables HC to respect legislative timelines for releasing ATI requests, while program branches work with the departmental communications branch to prepare briefing and communication materials needed to support departmental operations.

3. The Office of the Information Commissioner recommends that Health Canada continue to reduce its deemed refusal rate to zero.

RESPONSE: *HC agrees with this recommendation and recognizes that it must do more to reduce the deemed refusal rate in 2012–2013. Though HC has been able to reduce the percentage of deemed refusals significantly (down from 22.5% in 2009–2010 to 11.1%), it will continue to make every effort to improve the timeliness of its responses to the public.*

Performance information on ATI will be provided to the department's senior management on a monthly basis.

4. The Office of the Information Commissioner recommends that Health Canada set out fixed time frames within which consulted institutions have an opportunity to provide their severing recommendations. Failing that Health Canada, as the government institution in receipt of the request, would determine for itself any applicable exemptions, in order to respect the timelines.

RESPONSE: *HC agrees with this recommendation and will continue exploring how to improve the way it conducts consultations with other government institutions. It also recognizes that the deadlines associated with requests need to set out a specific time frame for the consultations and if these times are not met, HC must be prepared to take a decision on disclosure issues. HC's ATIP Coordinator will also work with the Office of the Information Commissioner on best practices for setting performance expectations in relation to the type of exemptions and the size and complexity of files as an additional way to improve its compliance rate.*

5. The Office of the Information Commissioner recommends that Health Canada clearly articulate in its internal procedures that all necessary consultations be undertaken in a manner consistent with the Treasury Board Secretariat guidelines, and that consultations with multiple government institutions and third parties be conducted concurrently.

RESPONSE: *HC agrees with this recommendation. In accordance with Treasury Board Secretariat (TBS) guidelines HC will work closely with all third parties to set out legislative due dates and processes, whereby appropriate exemptions can be applied under the ATI Act.*

HC has also drafted a series of internal procedures, consistent with TBS guidelines, for carrying on consultations, particularly when it comes to concurrent processes.

6. The Office of the Information Commissioner recommends that Health Canada document and review the criteria it uses for extensions to ensure that the extensions are reasonable and legitimate.

RESPONSE: *HC agrees with this recommendation.*

HC has drafted Standard Operating Procedures on the application of extensions. These will be shared with the Office of the Information Commissioner.

7. The Office of the Information Commissioner recommends that Health Canada's access to information office contribute to the institution's IM Action Plan to ensure a quick and proper search of records in response to access to information requests.

RESPONSE: *HC agrees with this recommendation and is currently considering an Information Management Strategy that will substantially improved the time needed to retrieve records. Steps have already been taken to improve the electronic transfer of files, reducing the dependence on paper-based processes and improving record search times. HC has streamlined its review process to further enhance on-time performance.*

8. The Office of the Information Commissioner recommends that Health Canada report on its progress implementing these recommendations and its ATIP Transformation Action Plan in its annual report to Parliament on access to information operations.

RESPONSE: *HC agrees with this recommendation and will be incorporating the Office of the Information Commissioner's recommendations into both the ATI Transformation Plan and its Annual Report to Parliament.*

To date the Department has exceeded a majority of the targets set out in the November 2010 Transformation Plan. The compliance rate for 2011–2012 is 91.5% (up from 81.2% in 2009–2010) and the average number of late files is down to 9 per month. The percentage of complaints is down to 3.6% from over 5% in 2010–2011 and the 204 backlog files from 2009–2010 are also down to 11. In November 2010, HC became one of the first departments to begin proactively posting a monthly list of previously released records on its website.

HC is committed to informing Canadians, and it will be identifying other opportunities to provide more information to the public under the Open Government Initiative.

Human Resources and Skills Development Canada

The mission of the Human Resources and Skills Development Canada portfolio, which includes the federal Labour Program and Service Canada, is to build a stronger, more competitive Canada, to support Canadians in making choices that help them live productive and rewarding lives, and to improve Canadians' quality of life.

Assessment
(Received a C in 2008–2009)

- HRSDC turned in a strong performance in 2010–2011. Its deemed refusal rate was 3.5 percent and its average time to complete a request was 45 days. HRSDC also eliminated its backlog of long-standing requests.

- HRSDC attributes its improved performance to having a strong and knowledgeable access to information team, with little turnover, instituting a quarterly report to clearly communicate plans and priorities, and briefing senior management on the institution's access to information statistics.

- HRSDC satisfactorily implemented three of the Office of the Information Commissioner's (OIC) four 2008–2009 recommendations. The OIC has issued a new recommendation related to HRSDC's delegation order, to ensure it is not a source of delay in the access process, and other recommendations for improvement (see page 91).

* Percentage of carried over and new requests delayed beyond the deadlines (30 days and extended) set out in the *Access to Information Act*. (See Appendix B for the formula the OIC used to calculate this rate.)

** A complaint is resolved when the OIC finds it has merit and the institution resolves it to the Commissioner's satisfaction. The number of complaints reported here is current as of November 2011. As a result, the figure for 2008–2009 may be different from what appeared in the 2008–2009 report card.

QUICK FACTS	2008–2009	2010–2011
Number of requests carried over from previous fiscal year	78	46
Number of new requests	295	492
Number of requests completed	406	475
Number of pages reviewed for requests completed	65,898	106,518
Deemed refusal rate	10.2%*	3.5%*
Average number of days to complete a request	80	45
Number of consultation requests received	129	148
Percentage of required extension notices submitted to the OIC	>85%	>85%
Number of complaints registered with the OIC	11	26
Number of complaints the OIC resolved	5**	14**
Number of full-time equivalents in access to information operations, as of the end of the fiscal year	15	11.3

FOLLOW-UP ON 2008–2009 RECOMMENDATIONS

Delegation order ....Did not meet expectations

Backlog .... Met expectations

Deemed refusal rate .... Met expectations

Extension notices .... Met expectations

See report card text for details. For the full text of the recommendations and the institution's initial response, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2008-2009_30.aspx.

Report card

Human Resources and Skills Development Canada (HRSDC) turned in a strong performance in 2010–2011. Its deemed refusal rate was 3.5 percent and its average time to complete a request was 45 days. HRSDC also eliminated its backlog of long-standing requests. These achievements reflect notable improvements from 2008–2009, which, according to HRSDC, was an atypical year because of a merger of its access to information functions with those of Service Canada.

In an effort to reduce the deemed refusal rate, HRSDC officials instituted a quarterly report to clearly communicate plans and priorities. Also, senior management is now regularly updated on access statistics to provide awareness throughout the organization. HRSDC reported that the aim of this briefing is not to single out any particular area, but rather to quickly identify trouble spots.

HRSDC reported having a strong and stable access to information team, which has resulted in confidence, consistency and continuity. HRSDC has experienced very low staff turnover in recent years.

HRSDC reported that there were no delays in the approval process. The executive head of a branch or region is provided with a copy of the release package, upon request, and has four working days to sign off that he or she is aware the records are being released. Packages may also be provided to communications and the Minister's office upon request. Access officials said that responding to information requests is not delayed by this "seen and noted" process, since they have made it abundantly clear to all parties that they adhere to legislated timelines. Contrary to the OIC's 2008–2009 recommendation, however, the delegation order at HRSDC remains diffuse, listing senior officials outside the access office. HRSDC officials are of the view that, given the institution's size and complex structure, the access director is well served by having the support of senior portfolio management.

The number of complaints against HRSDC more than doubled from 11 in 2008–2009 to 26 in 2010–2011, half of which were for time extensions. HRSDC has suggested that the increase in complaints is due to the increase in requests: it received 67 percent more requests in 2010–2011 than in 2008–2009. Access officials said that a large number of complaints were made by a single person. With a significant increase in time extension complaints, the OIC reminds HRSDC to ensure that all time extensions taken are reasonable.

Follow-up on the 2008–2009 recommendations

The OIC issued four recommendations to HRSDC with the 2008–2009 report card. The following summarizes the subsequent developments at the institution in response. (For the full text of the recommendations and the institution's response, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2008-2009_30.aspx.)

1. HRSDC has not changed its delegation order in response to the OIC's recommendation that it do so, to remove non-access officials. In the OIC's experience, strong delegation orders that are not diffuse tend to lead to the best results. However, HRSDC access officials have said their delegation order does not cause delays in the access process, a fact borne out by the institution's performance in 2010–2011.

2. HRSDC eliminated its backlog of long-standing requests in response to the OIC's recommendation to do so.

3. HRSDC lowered its deemed refusal rate to 3.5 percent, one of the lowest rates among the institutions that were part of the 2010–2011 report card process.

4. HRSDC met the OIC's 85-percent standard for acceptable performance in terms of submitting notices of extensions it took of more than 30 days.

Access to information workload, 2008–2009 to 2010–2011

This graph shows the sources of Human Resources and Skills Development Canada's workload for the three fiscal years starting in 2008–2009. Comparing 2008–2009 to 2010–2011, the institution saw a 37-percent increase in its workload. Access requests carried over from the previous year decreased by 41 percent, but new requests increased by 67 percent and consultation requests increased by 15 percent from 2008–2009 to 2010–2011. The number of pages reviewed for requests completed increased by 62 percent.
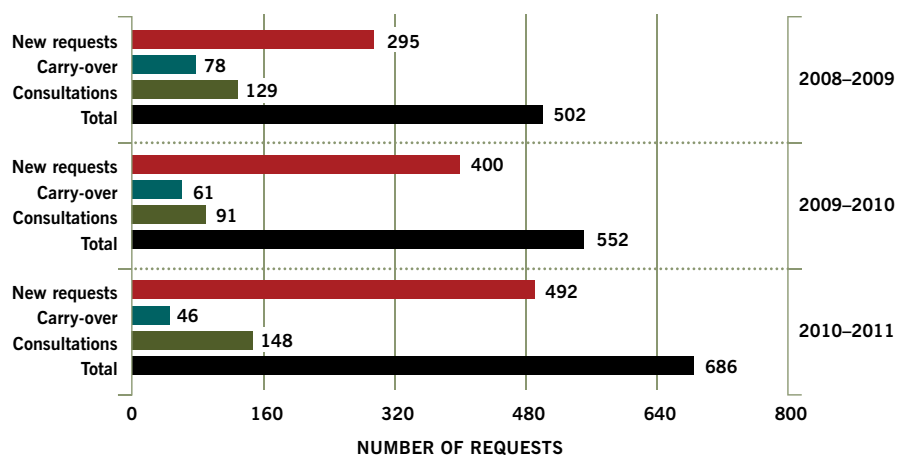
	2008–2009
New requests	295
Carry-over	78
Consultations	129
Total	502

	2009–2010
New requests	400
Carry-over	61
Consultations	91
Total	552

	2010–2011
New requests	492
Carry-over	46
Consultations	148
Total	686

NUMBER OF REQUESTS

(0, 160, 320, 480, 640, 800)

How long it took to complete new requests, 2008–2009 and 2010–2011

Between 2008–2009 and 2010–2011, the proportion of new access requests Human Resources and Skills Development Canada (HRSDC) completed within the timelines (30 days and extended) set out in the *Access to Information Act* rose from 92 percent to 98 percent. The remaining requests were completed late: 19 requests in 2008–2009 and 9 in 2010–2011. Although the number of overdue requests is small, HRSDC took longer to complete them after the deadline in 2010–2011 than it did in 2008–2009.
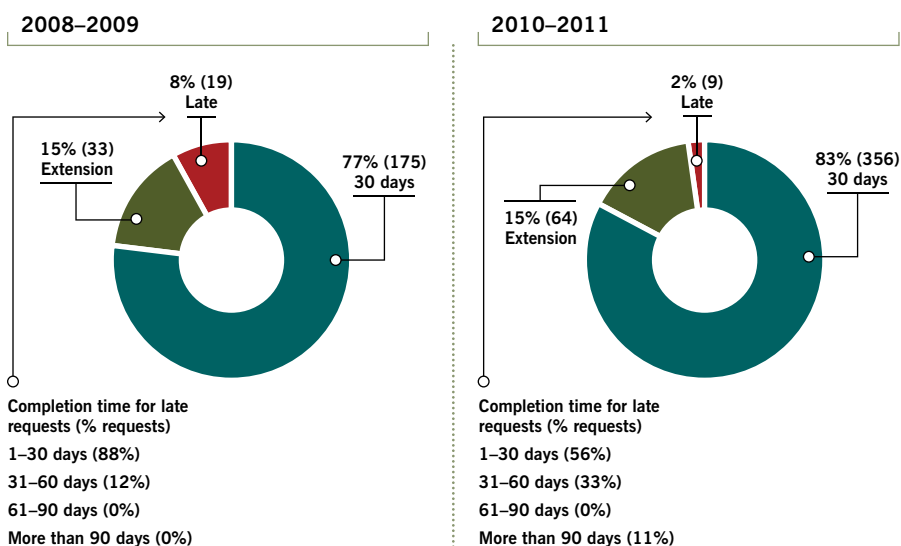
2008–2009

- 8% (19) Late
- 15% (33) Extension
- 77% (175) 30 days

Completion time for late requests (% requests)
1–30 days (88%)
31–60 days (12%)
61–90 days (0%)
More than 90 days (0%)

2010–2011

- 2% (9) Late
- 15% (64) Extension
- 83% (356) 30 days

Completion time for late requests (% requests)
1–30 days (56%)
31–60 days (33%)
61–90 days (0%)
More than 90 days (11%)

Number and length of time extensions taken, 2008–2009 and 2010–2011

This graph shows the number and length of the time extensions Human Resources and Skills Development Canada (HRSDC) reported to have taken in 2008–2009 and 2010–2011. The institution supplied this information in the notices it sent to the Office to the Information Commissioner (OIC) under subsection 9(2) of the *Access to Information Act*. HRSDC met the OIC's 85-percent standard for acceptable performance in this area in both 2008–2009 and 2010–2011.

2008–2009

Length	Number
31–90 days	39
91–120 days	20
121–150 days	10
151–180 days	4
> 180 days	5
Unspecified	3

2010–2011

Length	Number
31–90 days	35
91–120 days	16
121–150 days	19
151–180 days	2
> 180 days	2
Unspecified	0

NUMBER OF EXTENSIONS
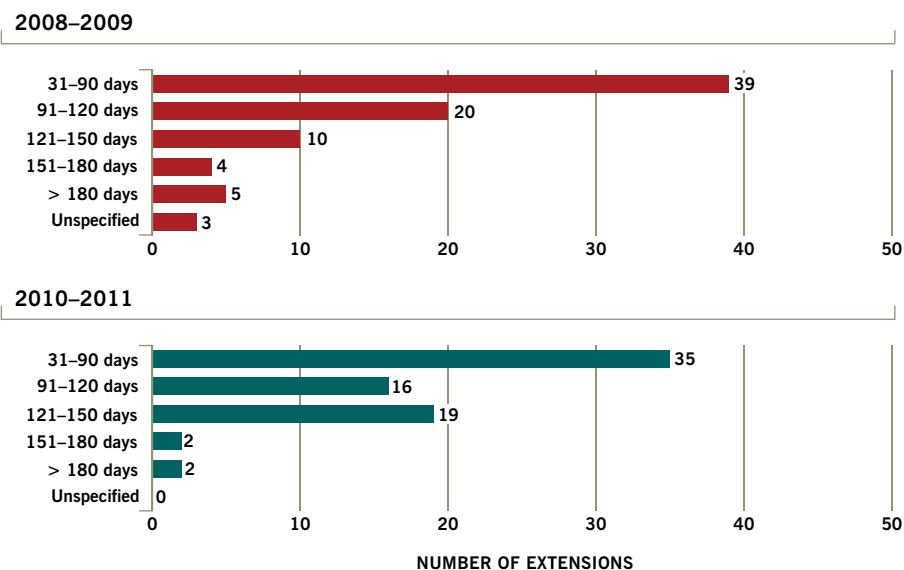
Number and outcome of delay-related complaints, 2008–2009 to 2010–2011

These graphs show the number and outcome of two types of complaint registered against Human Resources and Skills Development Canada (HRSDC) in the three fiscal years starting in 2008–2009: complaints about deemed refusals (access to information requests that HRSDC delayed beyond the deadlines—30 days and extended—set out in the *Access to Information A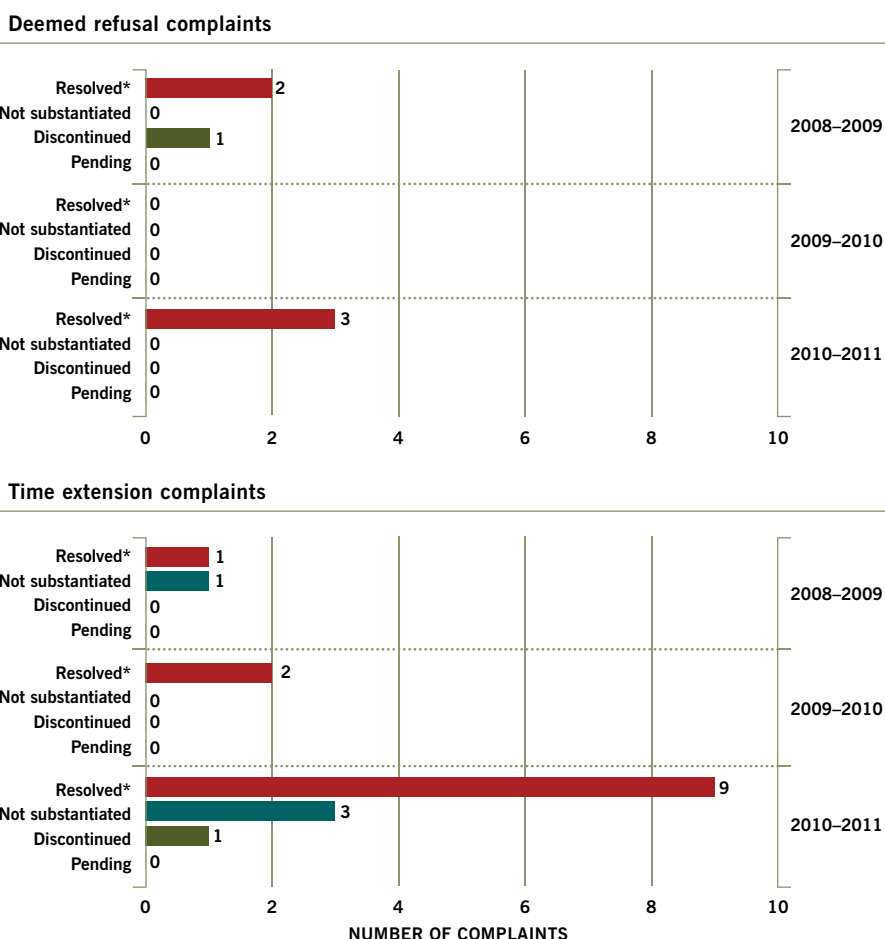ct*) and complaints about HRSDC's use of the time extensions allowed under the Act. The number of time extension complaints against HRSDC increased by more than five times from 2008–2009 to 2010–2011. Of the 13 time extension complaints received in 2010–2011, 9 were resolved.

Deemed refusal complaints

	2008–2009
Resolved*	2
Not substantiated	0
Discontinued	1
Pending	0

	2009–2010
Resolved*	0
Not substantiated	0
Discontinued	0
Pending	0

	2010–2011
Resolved*	3
Not substantiated	0
Discontinued	0
Pending	0

Time extension complaints

	2008–2009
Resolved*	1
Not substantiated	1
Discontinued	0
Pending	0

	2009–2010
Resolved*	2
Not substantiated	0
Discontinued	0
Pending	0

	2010–2011
Resolved*	9
Not substantiated	3
Discontinued	1
Pending	0

NUMBER OF COMPLAINTS

* Resolved complaints are those that the Office of the Information Commissioner finds to have merit and that the institution resolves to the Commissioner's satisfaction.

Number and outcome of complaints received by the Office of the Information Commissioner, 2008–2009 to 2010–2011

	RESOLVED*	NOT SUBSTANTIATED	DISCONTINUED	PENDING	TOTAL
2008–2009					
Administrative	3	1	1	0	**5**
Refusals	2	0	2	1	**5**
Cabinet confidences	0	0	0	1	**1**
Total	**5**	**1**	**3**	**2**	**11**
2009–2010					
Administrative	5	0	1	0	**6**
Refusals	7	1	4	0	**12**
Cabinet confidences	0	0	0	0	**0**
Total	**12**	**1**	**5**	**0**	**18**
2010–2011					
Administrative	12	3	1	0	**16**
Refusals	2	4	0	4	**10**
Cabinet confidences	0	0	0	0	**0**
Total	**14**	**7**	**1**	**4**	**26**

This table sets out the number and outcome of the complaints the Office of the Information Commissioner (OIC) registered against Human Resources and Skills Development Canada (HRSDC) in the three fiscal years starting in 2008–2009. The number of complaints against HRSDC more than doubled from 2008–2009 to 2010–2011. Half of the 26 complaints registered in 2010–2011 were about HRSDC's use of time extensions.

* Resolved complaints are those that the OIC finds to have merit and that the institution resolves to the Commissioner's satisfaction.

2010–2011 recommendations

In light of HRSDC's strong performance, the OIC challenges it to assume a leadership role in the access to information community. However, the OIC is also issuing three new recommendations to prompt further improvement.

1. The Office of the Information Commissioner recommends that Human Resources and Skills Development Canada regularly review the processes and turnaround times related to the approvals required by the inclusion of non-access officials in the delegation order, to ensure they are not causing any delays in the release of records.

   RESPONSE: *Through its quarterly Access to Information Management Reports, HRSDC regularly reviews turnaround times to respond to* Access to Information Act *requests.*

   It should be noted the HRSDC's process does not involve obtaining approvals from non-Access officials cited on the delegation order.

Including senior management on the delegation order serves the Access to Information and Privacy Division, since having a voice at the senior management table means that ATI-related issues that need to be expedited can promptly be discussed at a senior level and resolved efficiently.

2. The Office of the Information Commissioner recommends that Human Resources and Skills Development Canada review its use of extensions to ensure that they are reasonable.

   RESPONSE: *In the spring of 2012, HRSDC is undertaking a review of its use of extensions to ensure that they are reasonable.*

3. The Office of the Information Commissioner recommends that Human Resources and Skills Development Canada report on its progress implementing these recommendations in its annual report to Parliament on access to information operations.

RESPONSE: *HRSDC will report on its progress in implementing recommendations in its annual report to Parliament on access to information operations.*

National Defence

National Defence complements the role of the Canadian Forces and is responsible for policy, resources, interdepartmental coordination and international defence relations. The Canadian Forces command, control and administer all military strategy, plans and requirements.

Assessment
(Received a D in 2008–2009)

B

- National Defence's performance in 2010–2011 was above average. Its deemed refusal rate was 9.2 percent, its average time to complete a request was down by nearly one quarter, and it largely eliminated its backlog. National Defence also made improvements to its access process—streamlining requests and ensuring extensions were reasonable and justified. As a result, complaints against National Defence dropped from 226 in 2008–2009 to 68 in 2010–2011.

- National Defence access officials reported that clearing the backlog has freed analysts to work on current requests and avoid a recurrence of aging requests. Efforts to communicate closely with requesters proved helpful in responding to access requests effectively.

- National Defence satisfactorily implemented four of the OIC's five 2008–2009 recommendations and continues to disagree with the fifth. The OIC has issued three recommendations to prompt further improvement (see page 97).

QUICK FACTS	2008–2009	2010–2011
Number of requests carried over from previous fiscal year	674	**306***
Number of new requests	1,669	**1,483**
Number of requests completed	1,761	**1,479**
Number of pages reviewed for requests completed	188,272	**253,002**
Deemed refusal rate	15.8%**	**9.2%****
Average number of days to complete a request	125	**95**
Average number of days to complete a request received in 2010–2011	n/a	**49**
Number of consultation requests received	440	**485**
Percentage of required extension notices submitted to the OIC	>85%	**>85%**
Number of complaints registered with the OIC	226	**68**
Number of complaints the OIC resolved	111+	**17+**
Number of full-time equivalents in access to information operations, as of the end of the fiscal year	61 (36.69)++	**43.94**

FOLLOW-UP ON 2008–2009 RECOMMENDATIONS

Time extensions: frequency .... Met expectations
Time extension: proper application .... Met expectations
Record-retrieval resources .... Disagreed
Information Support Team .... Met expectations
Backlog .... Met expectations

See report card text for details. For the full text of the recommendations, as well as the institution's initial response and October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_10.aspx.

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*   Of these requests, 233 came in right at the end of 2009–2010 but 73 were already overdue at the beginning of the new fiscal year.

** Percentage of carried over and new requests delayed beyond the deadlines (30 days and extended) set out in the *Access to Information Act*. (See Appendix B for the formula the OIC used to calculate this rate.)

+   A complaint is resolved when the OIC finds it has merit and the institution resolves it to the Commissioner's satisfaction. The number of complaints reported here is current as of November 2011. As a result, the figure for 2008–2009 may be different from what appeared in the 2008–2009 report card.

++ For 2010–2011, National Defence changed how it allocates its staff between privacy, information and shared functions. The number in parentheses shows how this would apply retroactively to 2008–2009, for comparative purposes.

Report card

National Defence's performance in 2010–2011 was above average. Its deemed refusal rate was 9.2 percent, its average time to complete a request was down by nearly one quarter, and it largely eliminated its backlog. National Defence also made improvements to its access process—streamlining requests and ensuring extensions were reasonable and justified. As a result, complaints against National Defence dropped from 226 in 2008–2009 to 68 in 2010–2011.

National Defence access officials reported that clearing the backlog has freed analysts to work on current requests and avoid a recurrence of aging requests. National Defence also made efforts to communicate closely with its requesters in order to streamline, clarify and inform them of the next steps in the access process or any stumbling blocks.

Establishing expectations from the beginning and staying in touch has proven key, access officials said, to dealing efficiently with requests, particularly those submitted in bulk. National Defence gets many such requests, with requesters commonly asking for all the records on a given subject. The coordinator reported that seeking agreement from the requester to split a request into more manageable parts can result in increased application fees but likely means the information can be released more quickly. Access staff said that even though requesters did not always like what they were being told, there was increased clarity and mutual understanding about the process.

Follow-up on the 2008–2009 recommendations

The OIC issued five recommendations to National Defence with the 2008–2009 report card. The following summarizes the subsequent developments at the institution in response. (For the full text of the recommendations, the institution's response and October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_10.aspx.)

1. In 2010–2011, National Defence took only half of the extensions (584) that it did in 2008–2009 (1,192) which still amounts to about half of its caseload being extended for more than 30 days.

2. The OIC is concerned that nearly one third of the complaints it registered against National Defence in 2010–2011 pertained to extensions. National Defence applied extensions to 38 percent of its new requests but reported to have initiated tighter controls on taking extensions, requiring the responding areas of the institutions to document their rationale for recommending them. The improvements related to both recommendations 1 and 2 are satisfactory to the OIC; however, National Defence should continue to strive for improvement in these areas.

   With regard to extensions for searching through large volumes of records, the access coordinator voiced a need for clear direction from Treasury Board Secretariat on what defines a high-volume request, arguing that increased complexity has rendered previous volume thresholds obsolete at National Defence. National Defence considers a request comprising 250 pages to be a large volume for requests requiring multiple consultations and internal deliberation. The coordinator did note that National Defence does review complaint resolutions from the OIC as a guide for how to administer volume thresholds.

3. The OIC and National Defence continue to disagree that an appropriation of more staff to the locales where it is experiencing delay in retrieving records would improve its compliance. In 2008–2009, National Defence argued, for example, that in Afghanistan, fighting the war was its top priority. The OIC's position was that, as Canada settled into its continued presence there, National Defence should have found a way of expediting record retrieval as a normal course of business, such as dedicated resources to this role. The OIC maintains this position, noting that other security-based institutions have embedded an access resource within security operations to manage the flow of requests in real time.

4. The Information Support Team provides expert consultation to the access office on matters of operations security in order to balance security requirements and speed of review. The OIC recommended that this extra level of review not cause additional delay. National Defence reported that team members come on site to review records, and that they have undergone training from access management to frame their justification for exemptions in ways that are consistent with the *Access to Information Act*.

5. National Defence had a backlog of 674 cases at the end of 2008–2009, prompting the OIC's recommendation that it must be reduced. As of November 2011, it stood at 24 files, none from earlier than 2010. Since clearing the backlog, National Defence has reported that its current inventory is far easier to deal with. Only 73 of the 306 requests National Defence carried over into 2011–2012 were overdue.

Access to information workload, 2008–2009 to 2010–2011

This graph shows the sources of National Defence's workload for the three fiscal years starting in 2008–2009. Comparing 2008–2009 to 2010–2011, the institution saw an 18-percent decrease in its workload. Notably, the number of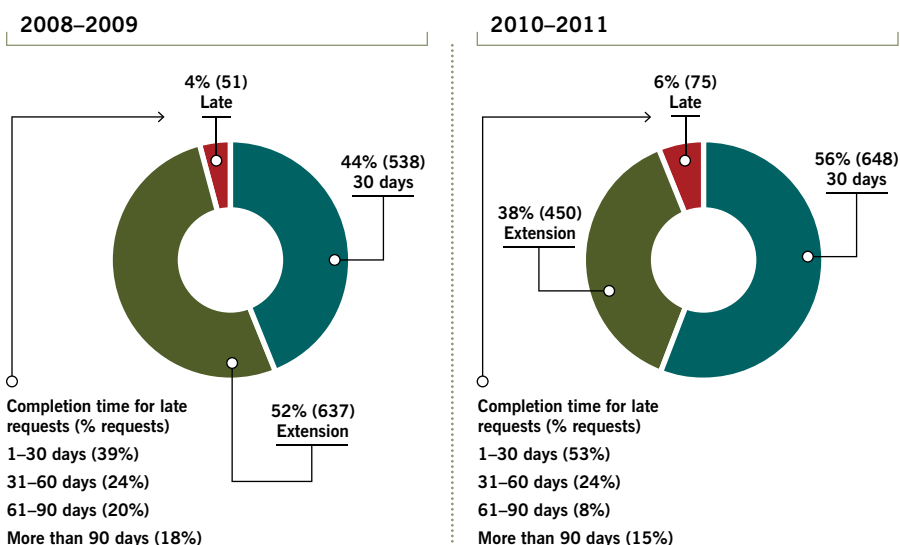 requests carried over from the previous fiscal year fell by 55 percent. At the same time the number of new requests and consultation requests decreased, by 11 percent and 10 percent, respectively. The number of pages reviewed for requests completed increased by 34 percent.
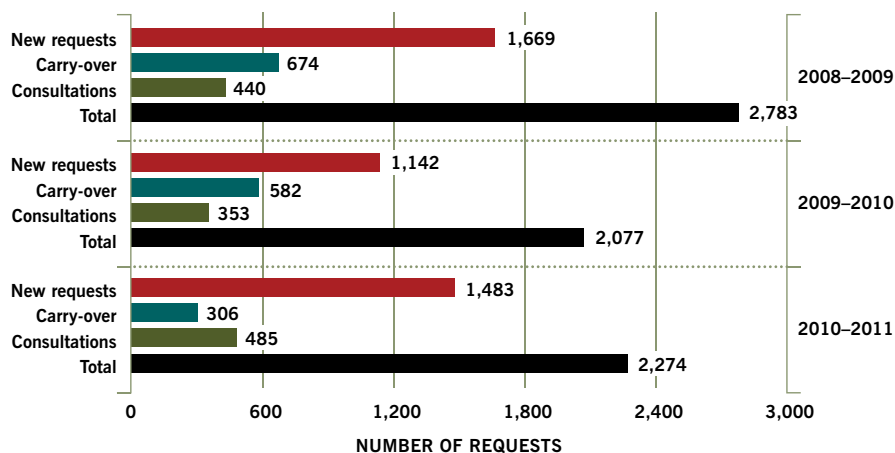
2008–2009
- New requests: 1,669
- Carry-over: 674
- Consultations: 440
- Total: 2,783

2009–2010
- New requests: 1,142
- Carry-over: 582
- Consultations: 353
- Total: 2,077

2010–2011
- New requests: 1,483
- Carry-over: 306
- Consultations: 485
- Total: 2,274

NUMBER OF REQUESTS (0, 600, 1,200, 1,800, 2,400, 3,000)

How long it took to complete new requests, 2008–2009 and 2010–2011

Between 2008–2009 and 2010–2011, the proportion of new access requests National Defence completed within the timelines (30 days and extended) set out in the *Access to Information Act* decreased from 96 percent to 94 percent, with a smaller proportion of time extensions (38 percent in 2010–2011 versus 52 percent in 2008–2009). The remaining requests were completed late: 51 requests in 2008–2009 and 75 in 2010–2011. While the pool of overdue requests grew by nearly one third, National Defence completed 53 percent of these requests within 30 days after the deadline in 2010–2011, compared to 38 percent in 2008–2009.

2008–2009
- 4% (51) Late
- 44% (538) 30 days
- 52% (637) Extension

Completion time for late requests (% requests)
- 1–30 days (39%)
- 31–60 days (24%)
- 61–90 days (20%)
- More than 90 days (18%)

2010–2011
- 6% (75) Late
- 56% (648) 30 days
- 38% (450) Extension

Completion time for late requests (% requests)
- 1–30 days (53%)
- 31–60 days (24%)
- 61–90 days (8%)
- More than 90 days (15%)

Number and length of time extensions taken, 2008–2009 and 2010–2011

This graph shows the number and length of the time extensions National Defence reported to have taken in 2008–2009 and 2010–2011. The institution suppli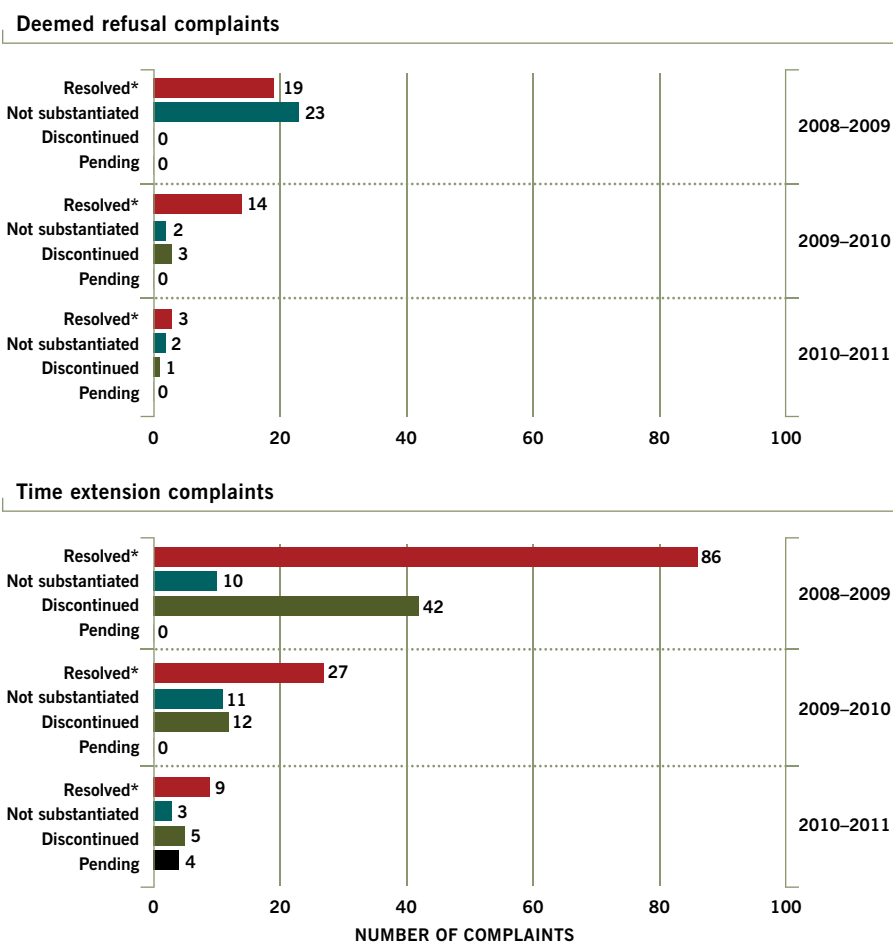ed this information in the notices it sent to the Office of the Information Commissioner (OIC) under subsection 9(2) of the *Access to Information Act*. National Defence met the OIC's 85-percent standard for acceptable performance in this area in both 2008–2009 and 2010–2011.

2008–2009

31–90 days	193
91–120 days	110
121–150 days	35
151–180 days	328
> 180 days	278
Unspecified	51

2010–2011

31–90 days	196
91–120 days	91
121–150 days	52
151–180 days	28
> 180 days	19
Unspecified	37

NUMBER OF EXTENSIONS
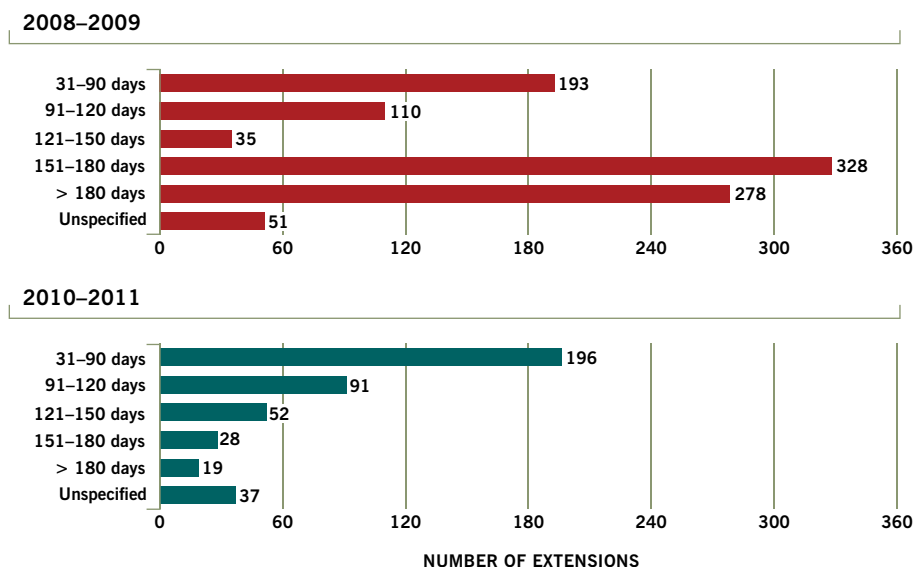
Number and outcome of delay-related complaints, 2008–2009 to 2010–2011

These graphs show the number and outcome of two types of complaint registered against National Defence in the three fiscal years starting in 2008–2009: complaints about deemed refusals (access to information requests that National Defence delayed beyond the deadlines—30 days and extended—set out in the *Access to Information Act*) and complaints about National Defence's use of the time extensions allowed under the Act. The number of both deemed refusal complaints and time extension complaints fell between 2008–2009 and 2010–2011, in line with an overall drop in complaints against National Defence over the same period.

Deemed refusal complaints

2008–2009
Resolved*	19
Not substantiated	23
Discontinued	0
Pending	0

2009–2010
Resolved*	14
Not substantiated	2
Discontinued	3
Pending	0

2010–2011
Resolved*	3
Not substantiated	2
Discontinued	1
Pending	0

Time extension complaints

2008–2009
Resolved*	86
Not substantiated	10
Discontinued	42
Pending	0

2009–2010
Resolved*	27
Not substantiated	11
Discontinued	12
Pending	0

2010–2011
Resolved*	9
Not substantiated	3
Discontinued	5
Pending	4

NUMBER OF COMPLAINTS

* Resolved complaints are those that the Office of the Information Commissioner finds to have merit and that the institution resolves to the Commissioner's satisfaction.

Number and outcome of complaints received by the Office of the Information Commissioner, 2008–2009 to 2010–2011

	RESOLVED*	NOT SUBSTANTIATED	DISCONTINUED	PENDING	TOTAL
2008–2009					
Administrative	105	34	42	0	**181**
Refusals	6	21	12	3	**42**
Cabinet confidences	0	3	0	0	**3**
Total	**111**	**58**	**54**	**3**	**226**
2009–2010					
Administrative	41	13	15	1	**70**
Refusals	4	8	5**	13	**30**
Cabinet confidences	0	0	0	0	**0**
Total	**45**	**21**	**20**	**14**	**100**
2010–2011					
Administrative	13	6	8	5	**32**
Refusals	4	7	8	16	**35**
Cabinet confidences	0	0	1	0	**1**
Total	**17**	**13**	**17**	**21**	**68**

This table sets out the number and outcome of the complaints the Office of the Information Commissioner (OIC) registered against National Defence in the three fiscal years starting in 2008–2009. Overall, the number of complaints against National Defence has fallen by 70 percent since 2008–2009. This decrease is most striking in the administrative category (82-percent decrease), which includes deemed refusal, fee and time extension complaints.

* Resolved complaints are those that the OIC finds to have merit and that the institution resolves to the Commissioner's satisfaction.

** The OIC began using new disposition categories in 2010–2011. There was one refusal complaint registered in 2009–2010 and closed in 2010-2011 in the new Settled category, which comprises complaints about minor errors, settled to the Commissioner's satisfaction without a finding. For statistical purposes, this complaint was placed in the Discontinued category.

2010–2011 recommendations

National Defence's improved performance in 2010–2011 prompts the OIC to recommend that National Defence take actions that, in the OIC's view, would further enhance it.

1. The Office of the Information Commissioner recommends that National Defence consider alternative methods of document retrieval so that its operations are not imperiled, but requesters' rights are respected.

   RESPONSE: *National Defence uses various methods of document retrieval, taking both expediency and security into consideration. The current methods do not imperil operations. DND is aware of the rights of requesters and strives as much as possible to respect them. It should be noted that as National Defence information storage and retrieval technology changes over time the methods of document retrieval are reviewed and refined on an ongoing basis.*

2. The Office of the Information Commissioner recommends that National Defence reduce its deemed refusal rate to zero.

   RESPONSE: *The goal of National Defence is to respond to applicants in the least time possible considering the complexity of the requests received. There are, though, extenuating circumstances outside of the control of the Department that make the achievement of a deemed refusal rate of zero extremely challenging, Some requests fall into deemed refusal while undergoing consultations with organizations not under the control of National Defence. DND tracks the average response times for consultations and attempts to take appropriate extensions based upon historical information and thus keep the applicant informed of when to reasonably expect a response. In other cases it is the nature and complexity of the request that creates the challenge. DND continues to work with applicants to appropriately scope requests in order to add clarity so that the requests may be processed*

in a timely manner. In the same vein, all requests are vetted upon receipt in order to ensure that they meet all of the requirements of section 6 of the Act and to determine if the applicant has submitted more than one request within the text of their correspondence. If so, multiple requests can be assigned simultaneously, resulting in the processing of more manageable concurrent requests and quicker response times.

3. The Office of the Information Commissioner recommends that National Defence report on its progress implementing these recommendations in its annual report to Parliament on access to information operations.

RESPONSE: *National Defence will report progress in responding to the above recommendations in its annual report to Parliament on access to information operations.*

Natural Resources Canada

Natural Resources Canada (NRCan) encourages innovation and expertise in earth sciences, forestry, energy and minerals, and metals to ensure responsible and sustainable development of Canada's natural resources.

Assessment
(Received an F in 2008–2009)

C

- NRCan improved its performance in 2010–2011. Its deemed refusal rate was 13.2 percent, and its average time to complete a request was 59 days. NRCan completed all the requests it received between September 2010 and March 2011 on time, and closed all 24 of the long-standing requests in its backlog.

- NRCan attributed this improved performance to its Re-engineering ATIP initiative, launched in September 2010. This multi-faceted initiative involved, among other things, revising the delegation order so that the coordinator is now the only person who may act for the minister with regard to exemptions and other access matters.

- NRCan satisfactorily implemented all five of the Office of the Information Commissioner's (OIC) 2008–2009 recommendations. The OIC is issuing six new recommendations to prompt further performance improvement (see page 103).

QUICK FACTS	2008–2009	2010–2011
Number of requests carried over from previous fiscal year	72	**41**
Number of new requests	365	**354**
Number of requests completed	370	**363**
Number of pages reviewed for requests completed	64,462	**73,774**
Deemed refusal rate	22.4%*	**13.2%***
Average number of days to complete a request	65	**59**
Number of consultation requests received	170	**147**
Percentage of required extension notices submitted to the OIC	<85%	**>85%**
Number of complaints registered with the OIC	11	**5**
Number of complaints the OIC resolved	1**	**1****
Number of full-time equivalents in access to information operations, as of the end of the fiscal year	5.6	**7.0**

FOLLOW-UP ON 2008–2009 RECOMMENDATIONS

Delegation order.. Met expectations
Resources .... Met expectations
Average completion time .... Met expectations
Deemed refusal rate.. Met expectations
Extension notices.. Met expectations

See report card text for details. For the full text of the recommendations, as well as the institution's initial response and October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_11.aspx.

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* Percentage of carried over and new requests delayed beyond the deadlines (30 days and extended) set out in the *Access to Information Act*. (See Appendix B for the formula the OIC used to calculate this rate.)

** A complaint is resolved when the OIC finds it has merit and the institution resolves it to the Commissioner's satisfaction. The number of complaints reported here is current as of November 2011. As a result, the figure for 2008–2009 may be different from what appeared in the 2008–2009 report card.

Report card

Natural Resources Canada (NRCan) improved its performance in 2010–2011. Its deemed refusal rate was 13.2 percent, and its average time to complete a request was 59 days. NRCan completed all the requests it received between September 2010 and March 2011 on time, and closed all 24 of the long-standing requests in its backlog.

NRCan launched its Re-engineering ATIP initiative in September 2010. This multi-faceted initiative involved, importantly, revising the delegation order so that the coordinator is now the only person who may act for the minister with regard to exemptions and other access matters.

Ultimately, the plan resulted in increased internal accountability, brought attention to the access function across the institution, and focused the attention of NRCan's leadership on the need to improve after NRCan received a failing grade on the 2008–2009 report card. An institution-wide, director general-level committee now provides executive oversight for access operations. Chaired by the Director General, Corporate Secretariat and Parliamentary Affairs Branch, the committee's specific objective is to improve NRCan's average completion time for requests. The committee also considers issues related to institutional access policy and processing procedures, training and sharing of best practices across the institution. Further, the deputy minister identified improving access performance as a corporate priority for 2010–2011. As a result, access performance measures were added to the performance management agreements of NRCan executives.

The access office has also seen an increase in resources. The number of full-time equivalents grew from 5.6 in 2008–2009 to 7 in 2010–2011, although there is funding available for 12 positions. There has been a renewed emphasis on training, which is delivered to a variety of staff, including directors and program managers, and has served to reinforce the re-engineering program. NRCan reports that software tools continue to present significant challenges for officers and managers, which has resulted in inefficiencies and eroded confidence in the accuracy of software-generated reports. However, the office has invested in a new system for processing and redacting records, which it hopes will lead to efficiencies and better reporting accuracy. There were also plans to renovate and expand office space in December 2011.

NRCan has observed a general improvement in the time required for consultations. However, the prolonged time taken by certain institutions to turn the consultation requests around continues to impact NRCan's processing times.
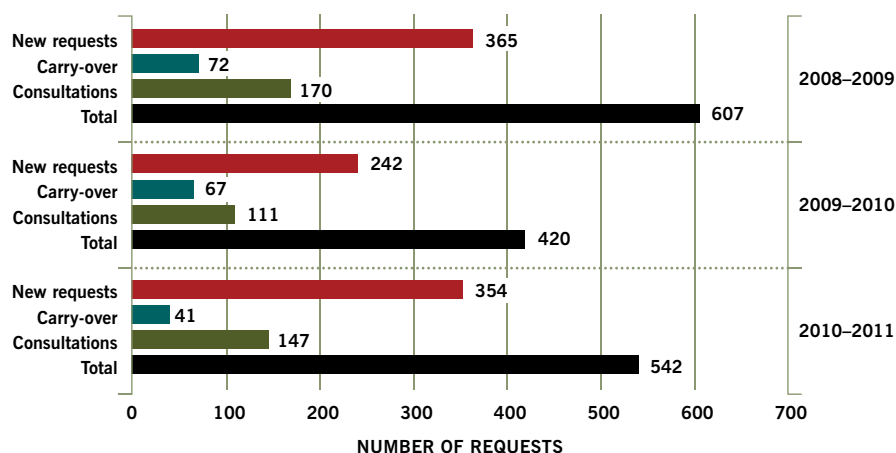
Follow-up on the 2008–2009 recommendations

The OIC issued five recommendations to NRCan with the 2008–2009 report card. The following summarizes the subsequent developments at the institution in response. (For the full text of the recommendations, the institution's response and the October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_11.aspx.)

1. NRCan amended the delegation order, as per the OIC's recommendation, such that only the coordinator has delegated authority for exemptions and other access matters. This is the optimal arrangement in the OIC's view.

2. NRCan allocated new resources to the ATIP program, including staff, equipment and upgraded office space.

3. As recommended by the OIC, NRCan reduced its average completion time, and has struck a director-general committee to strive for further improvement.

4. NRCan reduced its deemed refusal rate by 41 percent from 2008–2009.

5. NRCan met the OIC's 85-percent standard for acceptable performance in terms of submitting the required notices of extensions of longer than 30 days, as per the OIC's recommendation.
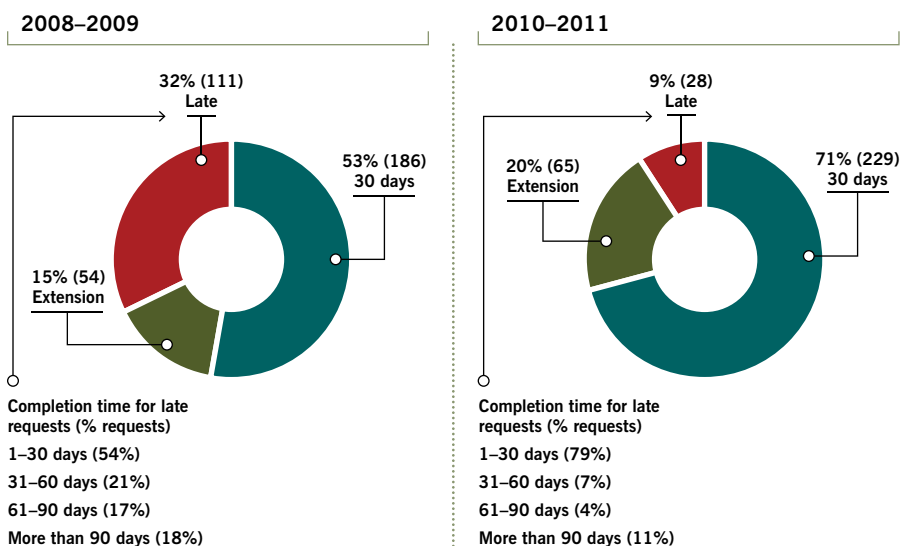
Access to information workload, 2008–2009 to 2010–2011

This graph shows the sources of Natural Resources Canada's workload for the three fiscal years starting in 2008–2009. Comparing 2008–2009 to 2010–2011, the institution saw an 11-percent decrease in its workload. This was due to decreases in all three categories of incoming work: new requests (3 percent), requests carried over from the previous fiscal year (43 percent) and consultation requests (14 percent). The number of pages reviewed for requests completed increased by 14 percent.

2008–2009
- New requests: 365
- Carry-over: 72
- Consultations: 170
- Total: 607

2009–2010
- New requests: 242
- Carry-over: 67
- Consultations: 111
- Total: 420

2010–2011
- New requests: 354
- Carry-over: 41
- Consultations: 147
- Total: 542

NUMBER OF REQUESTS

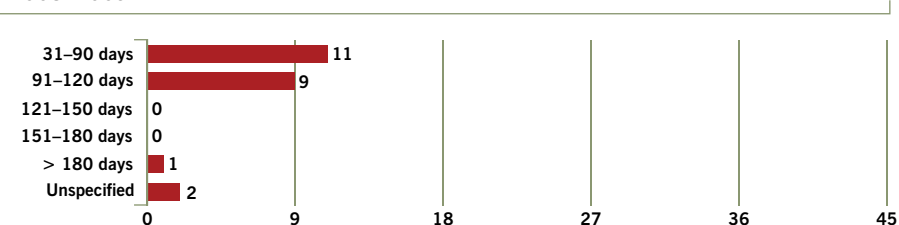## How long it took to complete new requests, 2008–2009 and 2010–2011

Between 2008–2009 and 2010–2011, the proportion of new access requests Natural Resources Canada (NRCan) completed within the timelines (30 days and extended) set out in the *Access to Information Act* rose from 68 percent to 91 percent. The remaining requests were completed late: 111 requests in 2008–2009 and 28 in 2010–2011. In addition to decreasing its pool of overdue requests, NRCan completed them more quickly, finishing 79 percent within 30 days after the deadline in 2010–2011, compared to 54 percent in 2008–2009.

2008–2009
- 32% (111) Late
- 53% (186) 30 days
- 15% (54) Extension

Completion time for late requests (% requests)
- 1–30 days (54%)
- 31–60 days (21%)
- 61–90 days (17%)
- More than 90 days (18%)

2010–2011
- 9% (28) Late
- 71% (229) 30 days
- 20% (65) Extension

Completion time for late requests (% requests)
- 1–30 days (79%)
- 31–60 days (7%)
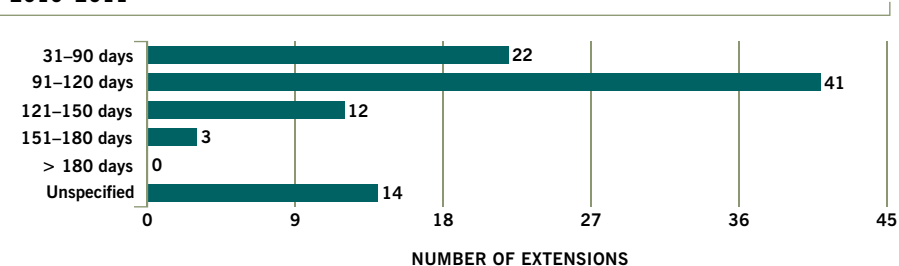- 61–90 days (4%)
- More than 90 days (11%)

Number and length of time extensions taken, 2008–2009 and 2010–2011

This graph shows the number and length of the time extensions Natural Resources Canada (NRCan) reported to have taken in 2010–2011. The institution supplied this information in the notices it sent to the Office of the Information Commissioner (OIC) under subsection 9(2) of the *Access to Information Act*. NRCan submitted fewer than 85 percent of the required notices in 2008–2009, at which point the OIC issued a recommendation that NRCan improve its performance in this area. In 2010–2011, NRCan submitted more than 85 percent of the required notices. The OIC notes the increased number of extensions NRCan took in 2010–2011.

2008–2009

31–90 days	11
91–120 days	9
121–150 days	0
151–180 days	0
> 180 days	1
Unspecified	2

2010–2011

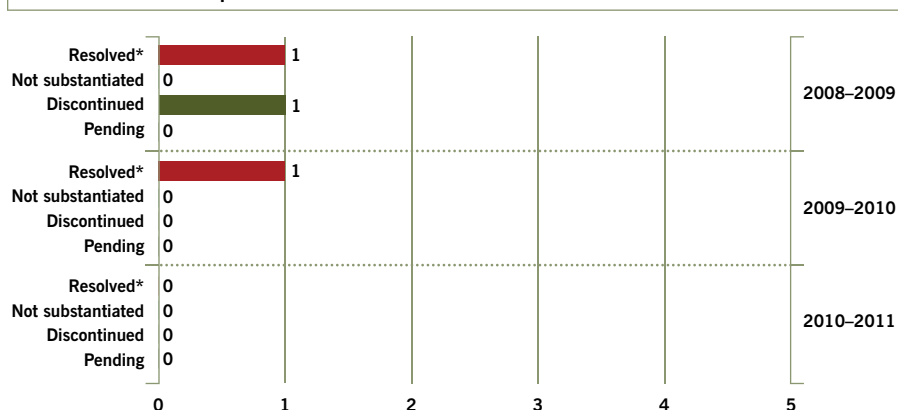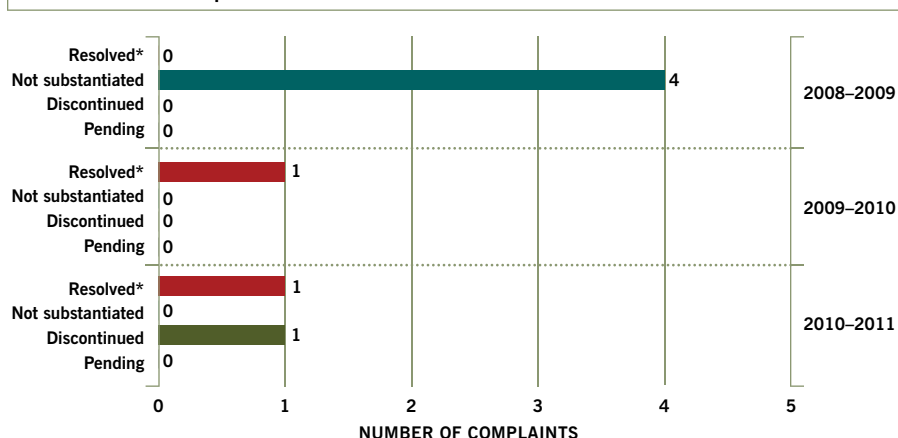|	
31–90 days	22
91–120 days	41
121–150 days	12
151–180 days	3
> 180 days	0
Unspecified	14

NUMBER OF EXTENSIONS

Number and outcome of delay-related complaints, 2008–2009 to 2010–2011

These graphs show the number and outcome of two types of complaint registered against Natural Resources Canada (NRCan) in the three fiscal years starting in 2008–2009: complaints about deemed refusals (access to information requests that NRCan delayed beyond the deadlines—30 days and extended—set out in the *Access to Information Act*) and complaints about NRCan's use of the time extensions allowed under the Act. Overall, the number of complaints of which NRCan was the subject decreased by 55 percent from 2008–2009 to 2010–2011. There were no complaints about deemed refusals in 2010–2011, and the number of time extension complaints dropped by half from 2008–2009.

Deemed refusal complaints

Resolved*	1	2008–2009
Not substantiated	0	
Discontinued	1	
Pending	0	
Resolved*	1	2009–2010
Not substantiated	0	
Discontinued	0	
Pending	0	
Resolved*	0	2010–2011
Not substantiated	0	
Discontinued	0	
Pending	0	

Time extension complaints

Resolved*	0	2008–2009
Not substantiated	4	
Discontinued	0	
Pending	0	
Resolved*	1	2009–2010
Not substantiated	0	
Discontinued	0	
Pending	0	
Resolved*	1	2010–2011
Not substantiated	0	
Discontinued	1	
Pending	0	

NUMBER OF COMPLAINTS

* Resolved complaints are those that the Office of the Information Commissioner finds to have merit and that the institution resolves to the Commissioner's satisfaction.

Number and outcome of complaints received by the Office of the Information Commissioner, 2008–2009 to 2010–2011

	RESOLVED*	NOT SUBSTANTIATED	DISCONTINUED	PENDING	TOTAL
2008–2009					
Administrative	1	4	1	0	6
Refusals	0	0	1	2	3
Cabinet confidences	0	2	0	0	2
Total	**1**	**6**	**2**	**2**	**11**
2009–2010					
Administrative	2	2	1	0	5
Refusals	1	3	0	1	5
Cabinet confidences	0	1	0	0	1
Total	**3**	**6**	**1**	**1**	**11**
2010–2011					
Administrative	1	0	1	1	3
Refusals	0	0	0	2	2
Cabinet confidences	0	0	0	0	0
Total	**1**	**0**	**1**	**3**	**5**

This table sets out the number and outcome of the complaints the Office of the Information Commissioner (OIC) registered against Natural Resources Canada in the three fiscal years starting in 2008–2009. The number of complaints decreased by more than half in 2010–2011 from the level in the two previous reporting periods.

* Resolved complaints are those that the OIC finds to have merit and that the institution resolves to the Commissioner's satisfaction.

2010–2011 recommendations

Although NRCan's performance was better in 2010–2011 than it was in 2008–2009, a "C" grade is tenuous and indicates that there is still room for improvement. As a result, the OIC is issuing the following recommendations.

1. The Office of the Information Commissioner recommends that the Minister of Natural Resources and the Deputy Minister of Natural Resources Canada demonstrate leadership in overseeing the progress and compliance with the *Access to Information Act* of the access to information office.

   RESPONSE: *Natural Resources Canada ATIP officials continue to meet weekly with Minister's staff to brief on the division's progress and compliance with the* Access to Information Act*. The Deputy Minister and the senior level cadre are briefed weekly at the DM's Operations Committee by the ADM of the branch responsible for access to information via the division's weekly report—"ATI at a Glance."*

2. The Office of the Information Commissioner recommends that Natural Resources Canada set out fixed time frames within which consulted institutions have an opportunity to provide their severing recommendations. Failing that, Natural Resources Canada, as the government institution in receipt of the request, would determine for itself any applicable exemptions.

   RESPONSE: *NRCan's Access to Information division will continue to look at innovative approaches to working with colleagues from other government departments to improve performance as it relates to the timeliness of consultations. Fixed timelines will continue to be a part of the consultation process.*

3. The Office of the Information Commissioner recommends that Natural Resources Canada review and document the criteria it uses for extensions to ensure that they are reasonable and legitimate.

   RESPONSE: *NRCan ATIP officials will continue to ensure that reasonable and legitimate criteria are used when*

determining the need for extensions. In particular, the ATIP division is disciplined in ensuring the new TBS directives are consistently applied in all cases.

4. The Office of the Information Commissioner recommends that Natural Resources Canada reduce its deemed refusal rate to zero.

   RESPONSE: *NRCan has improved its deemed refusal rate significantly since its last reporting period. NRCan will maintain the new processes that have contributed to this success and continue to look for new ways of doing business to ensure its compliance rate improves. Our current calculations for fiscal year 2011–2012 demonstrate a 2% deemed refusal rate.*

5. The Office of the Information Commissioner recommends that Natural Resources Canada continue to strive to reduce its average completion time.

RESPONSE: *Over and above implementation of all of the OIC 2008–2009 report card recommendations, NRCan has put a number of mechanisms in place that will assist in its goal to reduce its average completion time. These include building the proper governance of ATIP processing via the DG ATIP Committee, weekly briefings with the Minister's Office, weekly briefings to the department's Senior Management Team at the Deputy Minister's weekly Operations Committee, performance measures in executive performance agreements, the introduction of e-tools to facilitate processing, improved tracking mechanisms, and state of the art facilities for the ATIP team, to name a few.*

6. The Office of the Information Commissioner recommends that Natural Resources Canada report on its progress implementing these recommendations in its annual report to Parliament on access to information operations.

   RESPONSE: *NRCan will address the progress on implementing these recommendations in the upcoming annual report to Parliament on access to information.*

Privy Council Office

Led by the Clerk of the Privy Council, the Privy Council Office (PCO) facilitates the operations of Cabinet and the Government of Canada by implementing the Government's policy agenda and coordinating responses to issues facing the country. PCO also oversees the federal public service.

Assessment
(Received a D in 2008–2009)

B

- PCO's performance in 2010–2011 was above average. Its deemed refusal rate was 6.1 percent and the number of complaints against PCO was 57, a 71-percent decrease from 2008–2009. PCO eliminated its backlog and achieved a commendable average completion time of 38 days for requests received and completed in 2010–2011. PCO significantly reduced the number of time extensions that it took in 2010–2011, and the number of related complaints also fell substantially.

- PCO's improved performance is due, in part, to its concerted and successful effort to clear its backlog of long-standing requests and, consequently, concentrate on current ones.

- PCO satisfactorily implemented four of the Office of the Information Commissioner's (OIC) six 2008–2009 recommendations. The OIC has issued four new recommendations to challenge PCO's access information office to further improve its compliance with the *Access to Information Act* (see page 109), plus three recommendations for PCO's Cabinet Confidences Counsel (see page 112).

* Percentage of carried over and new requests delayed beyond the deadlines (30 days and extended) set out in the *Access to Information Act*. (See Appendix B for the formula the OIC used to calculate this rate.)

** PCO submitted 57 percent of the required notices during 2010–2011, and later submitted the outstanding ones, after discussions with the OIC.

+ A complaint is resolved when the OIC finds it has merit and the institution resolves it to the Commissioner's satisfaction. The number of complaints reported here is current as of November 2011. As a result, the figure for 2008–2009 may be different from what appeared in the 2008–2009 report card.

QUICK FACTS	2008–2009	2010–2011
Number of requests carried over from previous fiscal year	260	121
Number of new requests	650	647
Number of requests completed	674	673
Number of pages reviewed for requests completed	51,419	79,980
Deemed refusal rate	24%*	6.1%*
Average number of days to complete a request	157	132
Average number of days to complete a request received in 2010–2011	n/a	38
Number of consultation requests received	405	490
Percentage of required extension notices submitted to the OIC	>85%	<85%**
Number of complaints registered with the OIC	198	57
Number of complaints the OIC resolved	28+	16+
Number of full-time equivalents in access to information operations, as of the end of the fiscal year	17.1	23.76

FOLLOW-UP ON 2008–2009 RECOMMENDATIONS

Leadership .... Met expectations
Delegation order .... Disagreed
Backlog .... Met expectations
Time extensions .... Met expectations
Average completion time .... Met expectations
Extension notices ....Did not meet expectations

See report card text for details. For the full text of the recommendations, as well as the institution's initial response and October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_12.aspx.

Report card

The Privy Council Office's (PCO) performance was above average in 2010–2011. Its deemed refusal rate was 6.1 percent and the number of complaints against PCO was 57, a 71-percent decrease from 2008–2009. PCO also decreased the average time to complete requests and eliminated its backlog of long-standing requests. Excluding the latter files from the calculations, PCO's average completion time for requests received and completed in 2010–2011 was a commendable 38 days.

PCO's improved performance is due, in part, to its concerted effort to eliminate its backlog and free up analysts' time to concentrate on current requests. The Access Director reported that the morale boost from a more current workload, coupled with new updated software has improved PCO's ability to retain staff members. This is important for PCO, given that the institution spends significant time and resources on staffing, having conducted about 100 staffing actions since 2007. PCO increased its employee complement from 17 full-time equivalents in 2008–2009 to 24 in 2010–2011.

Another possible factor in the improved response time by PCO may have been a practice PCO implemented to reduce the number of requests for documents that could contain Cabinet confidences. In 2010–2011, the Office of the Information Commissioner (OIC) found this practice to be inconsistent with the obligation to process requested records, and PCO discontinued it after investigation by the OIC. The OIC will continue to monitor PCO's performance now that this issue has been resolved.

In relation to consultations, PCO reports that it contacts other government institutions to get an estimate of the time required to respond to a consultation request, and has developed protocols with the most frequently consulted institutions. This is confirmed by the number of complaints the OIC has received about PCO's use of time extensions. In 2008–2009, the number of these complaints the OIC resolved was 18, but in 2010–2011 it was three. The OIC considers approaches such as the consultation management process described above to be a best practice.

Although the number of administrative complaints has fallen, PCO currently ranks fifth of 84 institutions with complaints in the OIC's inventory. The resolution of complaints has, to date, required regular communication with senior officials of PCO. PCO and OIC need to pursue innovative ways to meet these challenges so that complaints can be investigated thoroughly and resolved efficiently.

Finally, PCO and the OIC continue to disagree about its delegation order, which accords limited authority to the Access Director to make decisions. The OIC is concerned that the director has been given responsibilities, such as responding to formal requests for representations from the OIC during the investigative process, without having the delegated authority for them. PCO disagrees with this interpretation of the delegation order.

Follow-up on the 2008–2009 recommendations

The OIC issued six recommendations to PCO with the 2008–2009 report card. The following summarizes the subsequent developments at the institution in response. (For the full text of the recommendations, the institution's initial response and October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_12.aspx.)
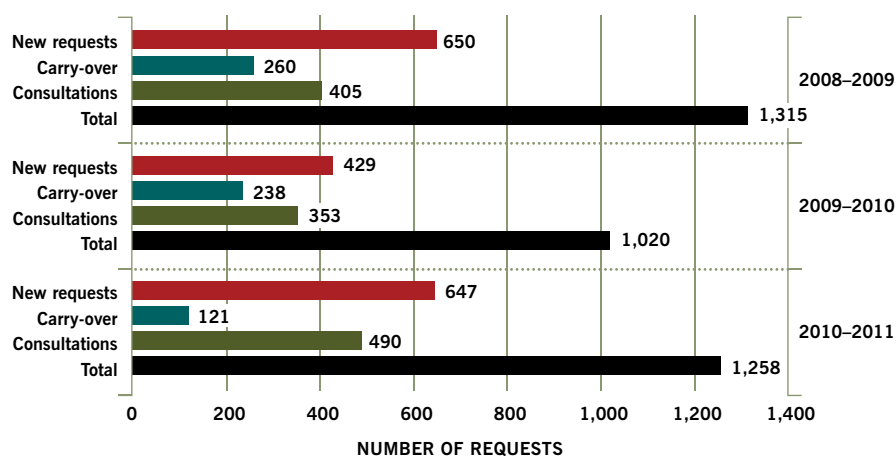
1. PCO leadership has, as per the OIC's recommendation, supported continued process improvement related to the access to information function, which has paid off in terms of improved performance.

2. PCO has not changed its delegation order in response to the OIC's recommendation that it remove non-access officials. In the OIC's experience, delegation orders that are not diffuse yield the best results. However, PCO access officials have said their delegation order does not cause delays in the access process, which seems to be borne out by the institution's performance in 2010–2011.

3. PCO cleared its backlog, which has had a positive effect on morale and the ability of analysts to concentrate on their caseload of current requests.

4. The number of complaints about PCO's use of time extensions has decreased each year since 2008–2009. In addition, PCO is now taking fewer lengthy extensions.

5. PCO reduced its overall average completion time, even though it completed many long-standing requests in 2010–2011. Excluding those, the average time to complete a request is a commendable 38 days.

6. In 2010–2011, PCO did not meet the OIC's 85-percent standard for submitting the required notices of extensions taken for longer than 30 days but did later submit the outstanding notices, after discussions with the OIC. PCO asserts that its compliance with this requirement has been uniform.
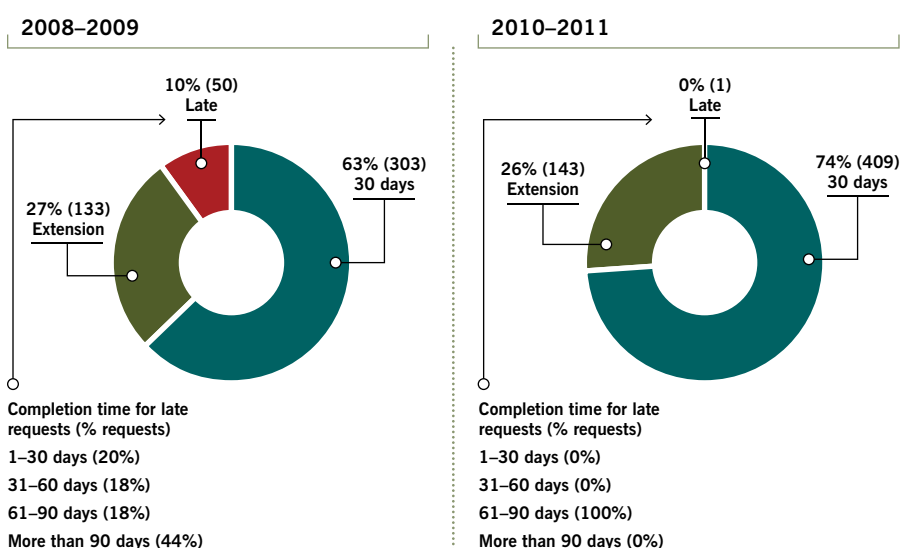
Access to information workload, 2008–2009 to 2010–2011

This graph shows the sources of the Privy Council Office's workload for the three fiscal years starting in 2008–2009. Comparing 2008–2009 to 2010–2011, the institution saw a 4-percent decrease in its workload. This was accounted for by a 53-percent decrease in the number of requests carried over from the previous fiscal year, and a 21-percent increase in the number of consultation requests. The number of new access requests was nearly identical each year (650 in 2008–2009 and 647 in 2011–2011). The number of pages reviewed for requests completed increased 56 percent.

2008–2009
New requests 650
Carry-over 260
Consultations 405
Total 1,315

2009–2010
New requests 429
Carry-over 238
Consultations 353
Total 1,020

2010–2011
New requests 647
Carry-over 121
Consultations 490
Total 1,258

NUMBER OF REQUESTS

How long it took to complete new requests, 2008–2009 and 2010–2011
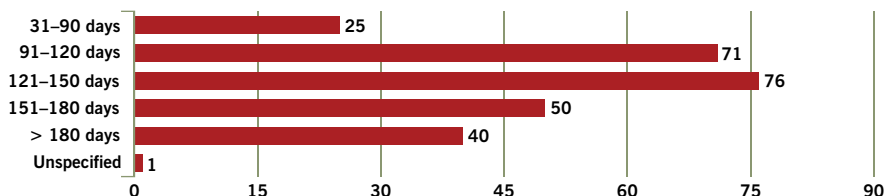
Between 2008–2009 and 2010–2011, the proportion of new access requests the Privy Council Office (PCO) completed within the timelines (30 days and extended) set out in the *Access to Information Act* rose from 90 percent to nearly 100 percent. The remaining requests were completed late: 50 requests in 2008–2009 and 1 in 2010–2011. PCO closed the latter within 61–90 days after the deadline.

2008–2009

10% (50) Late
63% (303) 30 days
27% (133) Extension

Completion time for late requests (% requests)
1–30 days (20%)
31–60 days (18%)
61–90 days (18%)
More than 90 days (44%)

2010–2011

0% (1) Late
74% (409) 30 days
26% (143) Extension

Completion time for late requests (% requests)
1–30 days (0%)
31–60 days (0%)
61–90 days (100%)
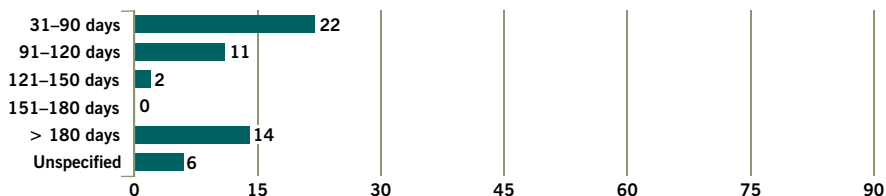More than 90 days (0%)

Number and length of time extensions taken, 2008–2009 and 2010–2011

This graph shows the number and length of the time extensions the Privy Council Office (PCO) reported to have taken in 2008–2009 and 2010–2011. The institution supplied this information in the notices it sent to the Office of the Information Commissioner (OIC) under subsection 9(2) of the *Access to Information Act*. PCO met the OIC's 85-percent standard for acceptable performance in this area in 2008–2009. In 2010–2011, PCO did not meet the standard but did later submit the outstanding notices, after discussions with the OIC.

2008–2009

Category	Value
31–90 days	25
91–120 days	71
121–150 days	76
151–180 days	50
> 180 days	40
Unspecified	1

2010–2011

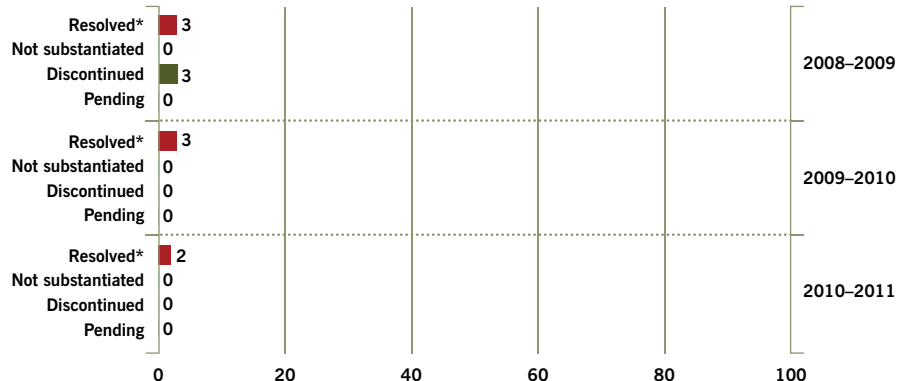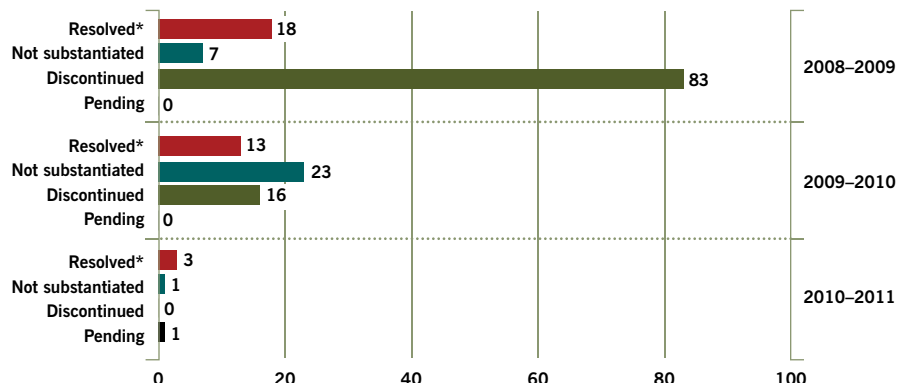| Category	Value
31–90 days	22
91–120 days	11
121–150 days	2
151–180 days	0
> 180 days	14
Unspecified	6

NUMBER OF EXTENSIONS

Number and outcome of delay-related complaints, 2008–2009 to 2010–2011

These graphs show the number and outcome of two types of complaint registered against the Privy Council Office (PCO) in the three fiscal years starting in 2008–2009: complaints about deemed refusals (access to information requests that PCO delayed beyond the deadlines—30 days and extended—set out in the *Access to Information Act*) and complaints about PCO's use of the time extensions allowed under the Act. PCO continued to be the subject of almost no deemed refusal complaints in 2010–2011, while the number of time extension complaints dropped to almost none from more than 100 in 2008–2009.

Deemed refusal complaints

Outcome	Value	Year
Resolved*	3	2008–2009
Not substantiated	0	
Discontinued	3	
Pending	0	
Resolved*	3	2009–2010
Not substantiated	0	
Discontinued	0	
Pending	0	
Resolved*	2	2010–2011
Not substantiated	0	
Discontinued	0	
Pending	0	

Time extension complaints

Outcome	Value	Year
Resolved*	18	2008–2009
Not substantiated	7	
Discontinued	83	
Pending	0	
Resolved*	13	2009–2010
Not substantiated	23	
Discontinued	16	
Pending	0	
Resolved*	3	2010–2011
Not substantiated	1	
Discontinued	0	
Pending	1	

NUMBER OF COMPLAINTS

* Resolved complaints are those that the Office of the Information Commissioner finds to have merit and that the institution resolves to the Commissioner's satisfaction.

Number and outcome of complaints received by the Office of the Information Commissioner, 2008–2009 to 2010–2011

	RESOLVED*	NOT SUBSTANTIATED	DISCONTINUED	PENDING	TOTAL
2008–2009					
Administrative	23	10	86	0	**119**
Refusals	4	11	20	8	**43**
Cabinet confidences	1	16	19	0	**36**
Total	**28**	**37**	**125**	**8**	**198**
2009–2010					
Administrative	16	23	16	0	**55**
Refusals	6	8	2	8	**24**
Cabinet confidences	0	4	0	1	**5**
Total	**22**	**35**	**18**	**9**	**84**
2010–2011					
Administrative	14	1	1	3	**19**
Refusals	2	2	3	27	**34**
Cabinet confidences	0	3	0	1	**4**
Total	**16**	**6**	**4**	**31**	**57**

This table sets out the number and outcome of the complaints the Office of the Information Commissioner (OIC) registered against the Privy Council Office (PCO) in the three fiscal years starting in 2008–2009. Complaints in 2010–2011 were down significantly (71 percent) from the 2008–2009 level. The OIC is concerned that the number of refusal complaints is on the rise again, after a decline in 2009–2010. Half of the complaints against PCO in 2010–2011 were about exemptions.

* Resolved complaints are those that the OIC finds to have merit and that the institution resolves to the Commissioner's satisfaction.

2010–2011 recommendations

Given PCO's much improved performance in 2010–2011, the OIC is making recommendations to challenge PCO to further improve its compliance with the *Access to Information Act*.

1. The Office of the Information Commissioner recommends that the Clerk of the Privy Council continue to take a strong leadership role in establishing a culture of compliance throughout the Privy Council Office through respect for all elements of access to information legislation.

   RESPONSE: *The Clerk of the Privy Council remains committed to a leadership role in promoting compliance to access to information legislation. With his support and assistance, internal working ATI relationships have been streamlined, technology upgraded, and expectations within the department made clear, all directly linked to performance improvements noted in the Report Card. The*

Clerk has also personally maintained a dialogue with the Information Commissioner, to promote understanding and address OIC issues and concerns.

2. The Office of the Information Commissioner recommends that the Privy Council Office revise its delegation order so that the Access Director has decision-making power for all aspects of access to information legislative and administrative processes. In the absence of a change to the current delegation order, it is recommended that a person with delegated authority sign any formal representations made on behalf of the Privy Council Office to the Office of the Information Commissioner.

   RESPONSE: *PCO considers its delegation of authority to be a model of responsible decision-making and informed judgment. In accordance with the* Financial Administration Act*, it balances accountability and disclosure with the lawful protection of information. Under section 73 of the*

ATIA, it is the prerogative of the head of a government institution to designate who may exercise functions or powers of the ATIA within that institution. The Prime Minister has designated the Director, Access to Information and Privacy (ATIP), to perform the powers, functions, and administrative tasks pertaining to the ATIA. PCO Secretariats (i.e., records holders) are authorized to approve the application of exemptions or exclusions and the release of information to requesters. This shared Delegation of Authority is exercised diligently within PCO, and recorded formally at the appropriate stages in the process. This in turn provides appropriate authorization and support to the Director to represent PCO's collective interests on access matters.

3. The Office of the Information Commissioner recommends that the Privy Council Office report on its progress implementing these recommendations in its annual report to Parliament on access to information operations.

RESPONSE: *The Privy Council Office will meet all reporting requirements mandated by the Treasury Board of Canada Secretariat in the production of its annual report to Parliament on the* Access to Information Act*.*

4. The Office of the Information Commissioner recommends that the Privy Council Office also include in its annual report to Parliament on access to information operations statistical data from the Cabinet Confidences Counsel group on the latter's responses to requests for certification of Cabinet confidences under section 69 of the *Access to Information Act*.

RESPONSE: *PCO will consider including data related to the consultation process in its annual report to Parliament on the* Access to Information Act*.*

Privy Council Office— Cabinet Confidences Counsel

Statistical review

Response time for the 1,233 consultation requests processed in 2010–2011, of the 1,321 received:

2010–2011

FEWER THAN 7 DAYS	8–90 DAYS	91–180 DAYS	MORE THAN 180 DAYS	TOTAL	PAGES REVIEWED
364 (30%)	515 (42%)	156 (13%)	198 (16%)	**1,233**	149,546

Comparison with the 1,549 consultation requests processed in 2008–2009, of the 1,701 received:

2008–2009

FEWER THAN 7 DAYS	8–90 DAYS	91–180 DAYS	MORE THAN 180 DAYS	TOTAL	PAGES REVIEWED
403 (26%)	870 (56%)	156 (10%)	120 (8%)	**1,549**	113,310

Report card

Privy Council Office–Cabinet Confidences Counsel (PCO-CCC) reviews records from all institutions to determine whether they contain information that must be excluded from disclosure under section 69 of the *Access to Information Act*.

In 2010–2011, PCO-CCC's number of incoming consultation requests decreased, but at the same time it experienced a 32-percent increase in the number of pages submitted for certification from the consulting institutions.

PCO-CCC is in a pivotal position with respect to the timely advancement of access to information requests for several large institutions, such as Foreign Affairs and International Trade Canada and National Defence, so lengthy processing times have a significant ripple effect across the entire federal access to information system. The OIC is particularly concerned that consulting institutions may take longer extensions in order to protect their compliance rate due to the increasing completion times for their consultation requests.

PCO-CCC acknowledges that its review process can be lengthy for institutions that are waiting for responses, but explained that institutions' interrelated information and litigation issues can be complicating factors for efficient processing. Of concern to the OIC is the dearth of statistical data on the length of the consultation process and the seeming lack of software or

Assessment

- While the OIC can appreciate all sides of the access to information process, the fact remains that the Cabinet confidences review process regularly leads to delay and that PCO-CCC must strive to find ways to facilitate a smoother process. Consulting institutions complain that their requests are returned for administrative details; however, PCO-CCC does not agree that this is the case.

- The OIC agrees with PCO-CCC's observation that when processes are better understood and more rigorously applied there will be better clarity and more timely processing of Cabinet confidence consultations.

- The OIC recommends that PCO-CCC, the Department of Justice Canada and the Treasury Board Secretariat explore mutual training opportunities for the access to information community at large.

another method for gathering information on PCO-CCC's performance in terms of responding to requests for certification of Cabinet confidences.

PCO-CCC's review of records is a rigorous process for which all the documents submitted for consideration must follow a particular format. First, the consulting institution must

retrieve, assemble and pass the records through a preliminary review by its own legal counsel before forwarding them to PCO-CCC. A covering list of documents must be written in a particular format and accompany the records. This process appears to delay the timeliness of consultations by adding multiple players and increasing potential for the return of consultations for reasons of format and not substance.

PCO-CCC delivered several training sessions to institutions' legal counsel in 2010–2011 to impart a better sense of what acceptable submissions look like. From the OIC's discussions with officials at both PCO-CCC and consulting institutions, however, it may be that further training is required, accompanied by clarified and augmented instructions for preparing a submission package.

Follow-up on the 2008–2009 recommendations

The OIC issued three recommendations to PCO-CCC with the 2008–2009 report card. The following summarizes the subsequent developments at the institution in response. (For the full text of the recommendations and the institution's initial response, go here: http://www.oic-ci.gc.ca/eng/ rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2008-2009_17.aspx.)

1. The OIC recommended that the Clerk of the Privy Council take a leadership role to ensure that PCO-CCC responds to requests in a timely manner and report its results directly to Parliament. PCO-CCC noted that the Clerk is the general custodian of Cabinet documents and considers the reporting role to be a function of the PCO access to information office.

2. The OIC also recommended that PCO-CCC strive to achieve a full complement of staff. PCO-CCC reported that recruitment is still proving to be a challenge. However, officials said that they are also looking to the Department of Justice Canada to perhaps send lawyers to PCO-CCC on secondment to get hands-on experience in this area.

3. In response to the recommendation to review the Cabinet consultation process with the access to information community, PCO-CCC said that it had conducted training for legal counsel for institutions as a conduit for institutions to better appreciate why it adheres to the current process.

2010–2011 recommendations

Certification of Cabinet confidences is an important part of the access to information process. Consequently, the OIC is issuing three new recommendations to PCO-CCC to encourage improvements in performance.

1. The Office of the Information Commissioner recommends that the Privy Council Office–Cabinet Confidences Counsel explore with Treasury Board Secretariat new and more efficient processes for the Cabinet confidences review process.

   RESPONSE: *PCO is involved in discussions with the Treasury Board Secretariat (TBS) in relation to the consultation process for the application of section 69 of the ATIA and will explore, with TBS, processes and practices that can be developed to improve the timeliness in responding to consultation requests.*

2. The Office of the Information Commissioner recommends that the Privy Council Office–Cabinet Confidences Counsel work with both the Department of Justice Canada and Treasury Board Secretariat to develop training to clarify the administrative aspects of the Cabinet confidence certification process to avoid delays that keep requesters waiting for their information.

   RESPONSE: *PCO and TBS have discussed and will discuss again the issue of training on Cabinet confidences. Training sessions will be developed in collaboration with TBS and the Department of Justice. In the meantime however, PCO re-emphasizes the need for departmental analysts and departmental legal counsel to refer to the Treasury Board Guidelines on the review of Cabinet confidences, which were approved by Ministers in 1993, and to the PCO Procedures of 2008 for the review of documents for the application of section 69. Those documents very well explain the principles and processes in relation to the application of section 69 and clearly indicate PCO requirements.*

3. The Office of the Information Commissioner recommends that the Privy Council Office–Cabinet Confidences Counsel track its performance in terms of responding to requests for certification of Cabinet confidences under section 69 of the *Access to Information Act*, and contribute this statistical data to the Privy Council Office's annual report to Parliament on access to information operations.

   RESPONSE: *In recent years, PCO has developed various tools that allow it to keep detailed statistics of its operational activities in relation to section 69. The tools are updated and developed as necessary to achieve different purposes within parameters that remain reasonable, taking into account the roles and functions of the office. In fact, PCO devotes significant resources to that effect and always works diligently to the best of its capacities for producing required data in all instances where it is asked by the Information Commissioner Office to provide information with respect to the consultation process. PCO will consider contributing data related to the consultation process in its annual report to Parliament.*

Public Safety Canada

Public Safety Canada coordinates and supports the efforts of federal organizations to ensure national security and the safety of Canadians. It works with various stakeholders on issues of emergency management, national security, law enforcement, crime prevention and the protection of Canada's borders.

Assessment
(Received a C in 2008–2009)

- Public Safety Canada's performance was above average in 2010–2011, and was an improvement over that from 2008–2009, even in the face of 27 percent more requests. The institution's deemed refusal rate was 5.8 percent and the average time to complete a request was 70 days.

- Access officials reported that they continued to struggle with a lack of awareness in program areas of their obligations under the *Access to Information Act* and their importance. In contrast, the high staff turnover at Public Safety Canada that affected access operations in 2008–2009 seemed to have abated in 2010–2011.

- Public Safety Canada satisfactorily implemented two of the Office of the Information Commissioner's (OIC) five 2008–2009 recommendations. It did not amend its delegation order or develop a training plan for access staff. However, the OIC is more concerned that the combination of a growing request volume and possible budget cuts not jeopardize those gains. The OIC has issued a recommendation to address this, and a number of others to prompt improved performance (see page 117).

* Percentage of carried over and new requests delayed beyond the deadlines (30 days and extended) set out in the *Access to Information Act*. (See Appendix B for the formula the OIC used to calculate this rate.)

** A complaint is resolved when the OIC finds it has merit and the institution resolves it to the Commissioner's satisfaction. The number of complaints reported here is current as of November 2011. As a result, the figure for 2008–2009 may be different from what appeared in the 2008–2009 report card.

QUICK FACTS	2008–2009	2010–2011
Number of requests carried over from previous fiscal year	59	28
Number of new requests	235	298
Number of requests completed	241	271
Number of pages reviewed for requests completed	28,695	32,616
Deemed refusal rate	8.5%*	5.8%*
Average number of days to complete a request	75	70
Number of consultation requests received	198	223
Percentage of required extension notices submitted to the OIC	<85%	>85%
Number of complaints registered with the OIC	18	21
Number of complaints the OIC resolved	4**	6**
Number of full-time equivalents in access to information operations, as of the end of the fiscal year	6.5	8.6

FOLLOW-UP ON 2008–2009 RECOMMENDATIONS

Delegation order..Did not meet expectations
Deemed refusal rate.. Met expectations
Consultations ....Did not meet expectations
Training ....Did not meet expectations
Extension notices.. Met expectations

See report card text for details. For the full text of the recommendations and the institution's initial response, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2008-2009_33.aspx.

Report card

Public Safety Canada's performance was above average in 2010–2011, and an improvement from 2008–2009, even in the face of 27 percent more requests. The institution's deemed refusal rate was 5.8 percent, and the average time to complete a request was 70 days.

The Office of the Information Commissioner (OIC) notes Public Safety Canada's increasing use of time extensions in 2010–2011, and is particularly concerned about the sharp increase in those for more than 180 days.

Consultations with certain institutions continue to be a source of delay, although Public Safety Canada reports that, overall, the process is working efficiently. When consultations take too long, Public Safety Canada continues to invoke its own discretionary exemptions and release the documents, which the OIC supports as a good practice.

Internally, the quality of records and recommendations submitted by certain program areas has caused difficulty, access officials reported, and has resulted in extensive discussions between officials in those areas and access staff. Public Safety Canada reported that introducing a "statement of completeness" into the process has helped immensely. Director general-level officials must attest to a thorough search, completeness of the records provided, and the rationale for any exemptions.

The OIC suggests that further training of employees in program areas could lead to greater awareness of access obligations: currently, the only program areas to receive training are those that request it. The access office does not have a dedicated resource to provide training; instead, this duty is shared between the coordinator and two other senior staff. Although the OIC had recommended that Public Safety Canada develop an employee training plan, the institution reports that there has not been an overwhelming need to train access staff in the last two years. Employees do, however, participate in Treasury Board Secretariat learning events, and some access staff are seeking certification through the University of Alberta's Information Access and Protection of Privacy program.

The problem of high staff turnover, reported by Public Safety Canada in the past, seemed to have abated in 2010–2011, and the access unit was fully staffed with 8.6 full-time equivalents, an increase from 6.5 in 2008–2009. Further, a number of the analysts had a minimum of five years of experience in the field. Public Safety Canada reported that having a highly supportive assistant deputy minister, director general and director contributed to the stability of the unit.

Access staff said they are concerned that the current level of compliance will be difficult to maintain, since the number of requests continues to increase and operating budgets are being cut.
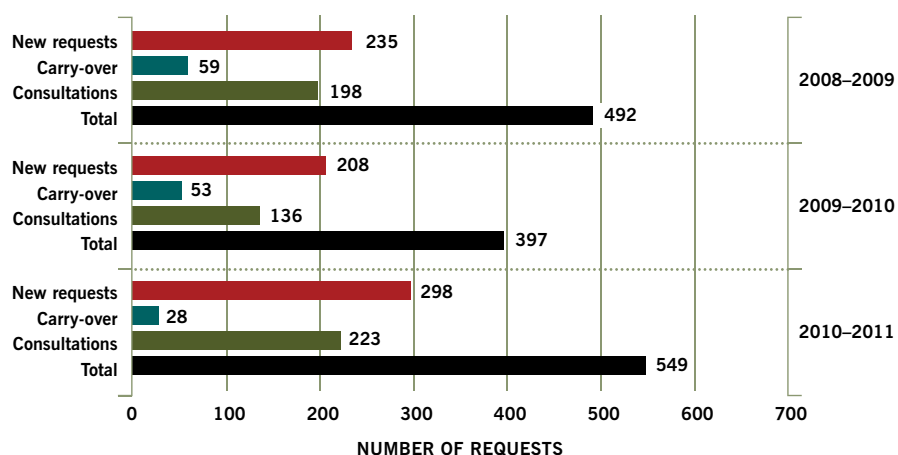
Follow-up on the 2008–2009 recommendations

The OIC issued five recommendations to Public Safety Canada with the 2008–2009 report card. The following summarizes the subsequent developments at the institution in response. (For the full text of the recommendations and the institution's initial response, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2008-2009_33.aspx.)

1. Despite the OIC's recommendation to revise the delegation order to provide the access to information coordinator with greater autonomy, the current delegation order stands. However, access officials reported increased awareness that having assistant deputy ministers review thousands of pages of documents is not an efficient use of their time. This may reportedly lead to the delegation order's being changed in the future. In the OIC's experience, strong delegation orders that are not diffuse tend to lead to the best results. However, Public Safety Canada access officials have said their delegation order does not cause delays in the access process, a fact borne out by the institution's performance in 2010–2011.

2. With its deemed refusal rate decreasing to 5.8 percent, Public Safety Canada is close to full compliance with the requirements of the *Access to Information Act*.

3. Public Safety Canada did not, as per the OIC's recommendation, develop formal protocols regarding consultations with other institutions, but this does not appear to be impeding the processing of requests.

4. Public Safety Canada did not follow the OIC's recommendation to implement a training plan for access staff. However, it does maintain a stable employee training program, which is largely focused outside of the access office.

5. In 2010–2011, Public Safety Canada submitted more than 85 percent of the required notices of extensions taken for more than 30 days, which meets the OIC's standard for acceptable performance in this area.
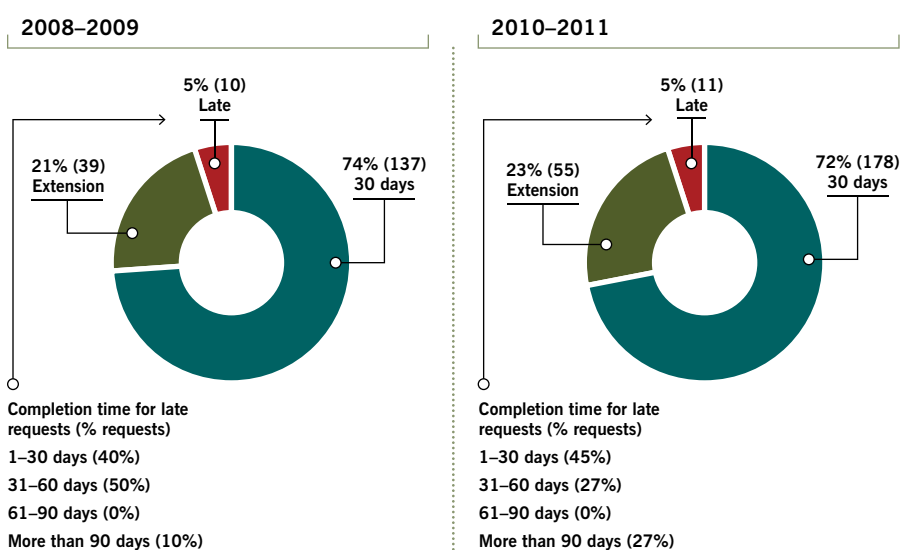
Access to information workload, 2008–2009 to 2010–2011

This graph shows the sources of Public Safety Canada's workload for the three fiscal years starting in 2008–2009. Comparing 2008–2009 to 2010–2011, the institution saw a 12-percent increase in its workload. A 53-percent decrease in requests carried over into 2010–2011 was offset by 27 percent more new requests and 13 percent more consultation requests than in 2008–2009. The number of pages reviewed for completed requests increased by 14 percent.

2008–2009
- New requests: 235
- Carry-over: 59
- Consultations: 198
- Total: 492

2009–2010
- New requests: 208
- Carry-over: 53
- Consultations: 136
- Total: 397

2010–2011
- New requests: 298
- Carry-over: 28
- Consultations: 223
- Total: 549

NUMBER OF REQUESTS

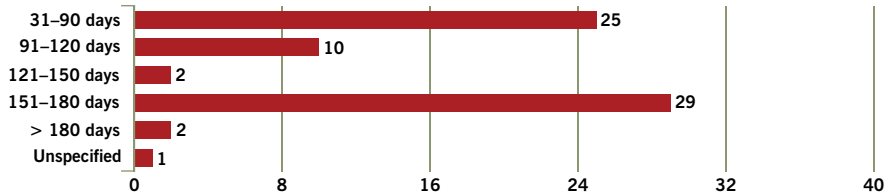## How long it took to complete new requests, 2008–2009 and 2010–2011

Between 2008–2009 and 2010–2011, the proportion of new access requests Public Safety Canada completed within the timelines (30 days and extended) set out in the *Access to Information Act* remained the same, at 95 percent, although the proportion of requests completed within 30 days decreased by two percentage points, from 74 percent in 2008–2009 to 72 percent in 2010–2011. A small number of requests were completed late: 10 requests in 2008–2009 and 11 in 2010–2011.

2008–2009
- 5% (10) Late
- 21% (39) Extension
- 74% (137) 30 days

Completion time for late requests (% requests)
1–30 days (40%)
31–60 days (50%)
61–90 days (0%)
More than 90 days (10%)

2010–2011
- 5% (11) Late
- 23% (55) Extension
- 72% (178) 30 days

Completion time for late requests (% requests)
1–30 days (45%)
31–60 days (27%)
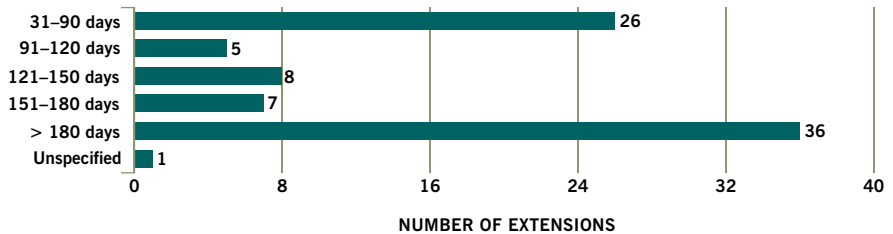61–90 days (0%)
More than 90 days (27%)

Number and length of time extensions taken, 2008–2009 and 2010–2011

This graph shows the number and length of the time extensions Public Safety Canada reported to have taken in 2008–2009 and 2010–2011. The institution supplied this information in the notices it sent to the Office of the Information Commissioner (OIC) under subsection 9(2) of the *Access to Information Act*. Public Safety Canada submitted fewer than 85 percent of the required notices in 2008–2009, at which point the OIC issued a recommendation that Public Safety Canada improve its performance in this area. In 2010–2011, Public Safety Canada submitted more than 85 percent of the required notices. The OIC notes Public Safety Canada's increasing use of time extensions in 2010–2011, and is particularly concerned about the sharp increase in those for more than 180 days.
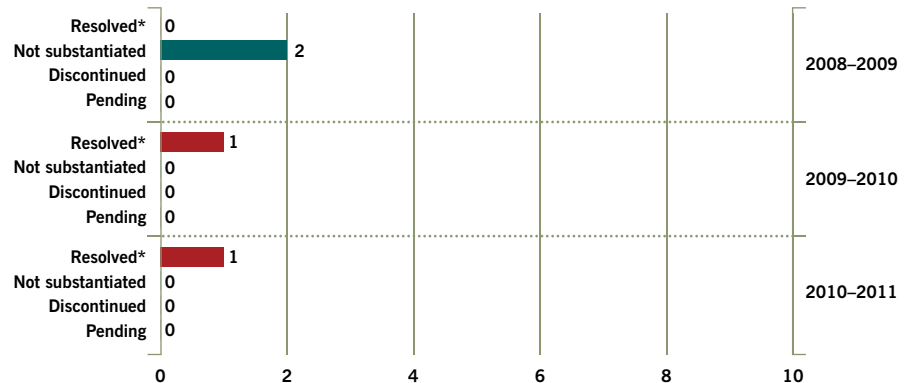
2008–2009

Days	Number
31–90 days	25
91–120 days	10
121–150 days	2
151–180 days	29
> 180 days	2
Unspecified	1

2010–2011

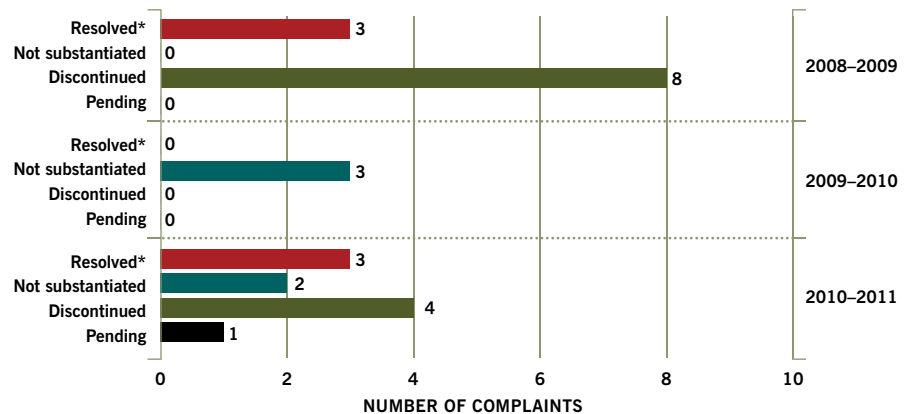| Days	Number
31–90 days	26
91–120 days	5
121–150 days	8
151–180 days	7
> 180 days	36
Unspecified	1

NUMBER OF EXTENSIONS

Number and outcome of delay-related complaints, 2008–2009 to 2010–2011

These graphs show the number and outcome of two types of complaint registered against Public Safety Canada in the three fiscal years starting in 2008–2009: complaints about deemed refusals (access to information requests that Public Safety Canada delayed beyond the deadlines—30 days and extended—set out in the *Access to Information Act*) and complaints about Public Safety Canada's use of the time extensions allowed under the Act. Overall, the number of complaints against Public Safety Canada in 2010–2011 increased by 16 percent from 2008–2009, although the number of both deemed refusal complaints and time extension complaints decreased slightly.

Deemed refusal complaints

2008–2009
Resolved*	0
Not substantiated	2
Discontinued	0
Pending	0

2009–2010
Resolved*	1
Not substantiated	0
Discontinued	0
Pending	0

2010–2011
Resolved*	1
Not substantiated	0
Discontinued	0
Pending	0

Time extension complaints

2008–2009
Resolved*	3
Not substantiated	0
Discontinued	8
Pending	0

2009–2010
Resolved*	0
Not substantiated	3
Discontinued	0
Pending	0

2010–2011
Resolved*	3
Not substantiated	2
Discontinued	4
Pending	1

NUMBER OF COMPLAINTS

* Resolved complaints are those that the Office of the Information Commissioner finds to have merit and that the institution resolves to the Commissioner's satisfaction.

4

Number and outcome of complaints received by the Office of the Information Commissioner, 2008–2009 to 2010–2011

	RESOLVED*	NOT SUBSTANTIATED	DISCONTINUED	PENDING	TOTAL
2008–2009					
Administrative	3	2	8	0	**13**
Refusals	1	1	1	1	**4**
Cabinet confidences	0	1	0	0	**1**
Total	**4**	**4**	**9**	**1**	**18**
2009–2010					
Administrative	1	3	0	0	**4**
Refusals	0	2	0	1	**3**
Cabinet confidences	0	0	0	0	**0**
Total	**1**	**5**	**0**	**1**	**7**
2010–2011					
Administrative	5	2	4	2	**13**
Refusals	1	1	3	2	**7**
Cabinet confidences	0	0	0	1	**1**
Total	**6**	**3**	**7**	**5**	**21**

This table sets out the number and outcome of the complaints the Office of the Information Commissioner (OIC) registered against Public Safety Canada in each of three fiscal years starting in 2008–2009. Although the number of complaints registered with the OIC decreased significantly in 2009–2010, compared to the year before, it rose again in 2010–2011 to exceed the number received in 2008–2009.

* Resolved complaints are those that the OIC finds to have merit and that the institution resolves to the Commissioner's satisfaction.

2010–2011 recommendations

Public Safety Canada's improvement could be jeopardized by budget cuts, particularly since the number of requests the institution receives continues to increase.

1. The Office of the Information Commissioner recommends that Public Safety Canada maintain the resourcing levels needed to comply with its obligations under the *Access to Information Act*.

   RESPONSE: *Public Safety Canada will resource the function appropriately.*

2. The Office of the Information Commissioner recommends that Public Safety Canada amend its delegation order, as recommended in 2008–2009.

   RESPONSE: *The Minister of Public Safety made a new delegation order on March 8, 2012, which is now in effect. We informed the Office of the Information Commissioner of the change and provided a copy of the new order on March 9, 2012.*

   The new delegation order gives full authority for the application of exemptions to the ATIP Coordinator, thereby streamlining the approval process, as recommended by the Office of the Information Commissioner.

3. The Office of the Information Commissioner recommends that Public Safety Canada review and document the criteria it uses for extensions to ensure that they are reasonable and legitimate.

RESPONSE: *Public Safety Canada must take extensions in order to consult with other government departments and other governments, given the nature of our work. Public Safety Canada takes reasonable and legitimate extensions in order to do so. The department receives periodic notices from other institutions informing us of how long those departments require to process consultations. In cases where no notice has been received, extensions are taken based on the average number of days an institution has historically required, or by contacting the department to ask. Public Safety Canada will create a guide for the use of extensions by the end of fiscal year 2012–2013 to document the current processes.*

4. The Office of the Information Commissioner recommends that Public Safety Canada report on its progress implementing these recommendations in its annual report to Parliament on access to information operations.

RESPONSE: *Public Safety Canada agrees to report on progress in implementing the recommendations of the Office of the Information Commissioner in its 2011–2012 Annual Report to Parliament on the Administration of the Access to Information Act.*

Royal Canadian Mounted Police

The Royal Canadian Mounted Police (RCMP) enforces throughout Canada laws made by or under the authority of Parliament, with the exception of the *Criminal Code*, the enforcement of which is delegated to the provinces. The RCMP provides police services in all provinces (except Ontario and Quebec) and territories, and in 180 municipalities.

Assessment
(Received a C in 2008–2009)

- The RCMP showed some improvement in 2010–2011 compared to 2008–2009. Its deemed refusal rate decreased from 18.3 percent to 12.6 percent. The number of complaints registered with the Office of the Information Commissioner (OIC) also decreased. The average time to complete a request, excluding long-standing requests, was a commendable 20 days. However, none of these improvements was enough to move the RCMP up the grade scale.

- In March 2010, the RCMP carried out an internal review that resulted in streamlined processes, new software and a stable, experienced workforce.

- The RCMP satisfactorily implemented all three of the OIC's 2008–2009 recommendations. Since there is room for further improvement, however, the OIC has made new recommendations to that end (see page 123), including to maintain adequate resources for the access function.

* Percentage of carried over and new requests delayed beyond the deadlines (30 days and extended) set out in the *Access to Information Act*. (See Appendix B for the formula the OIC used to calculate this rate.)

** A complaint is resolved when the OIC finds it has merit and the institution resolves it to the Commissioner's satisfaction. The number of complaints reported here is current as of November 2011. As a result, the figure for 2008–2009 may be different from what appeared in the 2008–2009 report card.

QUICK FACTS	2008–2009	2010–2011
Number of requests carried over from previous fiscal year	256	196
Number of new requests	2,008	1,657
Number of requests completed	1,976	1,709
Number of pages reviewed for requests completed	317,278	245,148
Deemed refusal rate	18.3%*	12.6%*
Average number of days to complete a request	38	64
Average number of days to complete a request received in 2010–2011	n/a	20
Number of consultation requests received	531	625
Percentage of required extension notices submitted to the OIC	<85%	>85%
Number of complaints registered with the OIC	105	69
Number of complaints the OIC resolved	26**	17**
Number of full-time equivalents in access to information operations, as of the end of the fiscal year	19.05	15.69

FOLLOW-UP ON 2008–2009 RECOMMENDATIONS

Deemed refusal rate... Met expectations

Extension notices.. Met expectations

Improvement plan .... Met expectations

See report card text for details. For the full text of the recommendations and the institution's initial response, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2008-2009_19.aspx.

Report card

The Royal Canadian Mounted Police (RCMP) showed some improvement in its access to information performance in 2010–2011, compared to 2008–2009. The RCMP reduced its deemed refusal rate from 18.3 percent to 12.6 percent. The number of complaints registered with the Office of the Information Commissioner (OIC) also decreased, from 105 in 2008–2009 to 69 in 2010–2011. The average time to complete a request increased, however, from 38 days to 64 days. This was largely due to the RCMP's focus on completing many of the long-standing requests in its backlog. Excluding those, the RCMP's average completion time was a commendable 20 days for requests received and completed in 2010–2011. However, none of these improvements was enough to move the RCMP up the grade scale.

In March 2010, the RCMP conducted an efficiency review of its access to information operations. This involved the coordinator's meeting with all units to collect input regarding issues and challenges, and then developing plans to respond to them. This resulted in a more streamlined process that enabled analysts to better cope with the workload. The RCMP also upgraded its access software.

The RCMP provides acting opportunities for those employees who demonstrate leadership potential and often promotes from within, all with an eye to succession planning. An office move in 2009–2010 meant losing some staff, while attracting others who preferred the new location. Generally, the RCMP's access office has seen high retention levels for various reasons, including having a large number of regular members on staff who are required to "lock in" for a specific length of time. RCMP officials reported that stability is also the result of good working conditions.

In the past, training has been a major focus for access officials, with 2,000 employees having been trained in previous years. This is one area in which the RCMP has already had to cut back as a result of budgetary restraint: in 2010–2011, only seven presentations were given to 481 participants. Access employees, however, are still encouraged to enroll in various courses to build their knowledge and skills.

An excellent initiative, unique to the RCMP, is placing an access resource in the field when the RCMP is involved in major events such as G8/G20 summits or the Olympics. Having someone on site who is well versed in access to information and can easily retrieve and process records has proven effective, RCMP access officials stated. The OIC is encouraged by the RCMP's innovative response to a challenging situation.
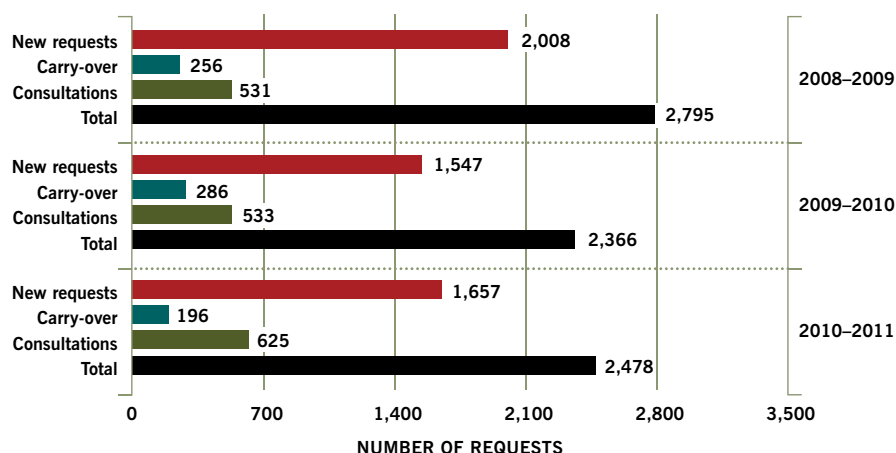
Follow-up on the 2008–2009 recommendations

The OIC issued three recommendations to the RCMP with the 2008–2009 report card. The following summarizes the subsequent developments at the institution in response. (For the full text of the recommendations and the institution's response, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2008-2009_19.aspx.)

1. The RCMP has, as per the OIC's recommendation, improved its deemed refusal rate.

2. The RCMP submitted more than 85 percent of the required notices of extensions taken for more than 30 days, which meets the OIC's standard for acceptable performance in this area.

3. Since the 2008–2009 report card, the RCMP has developed and implemented a clear plan to improve the delivery of access to information services, as per the OIC's recommendation.
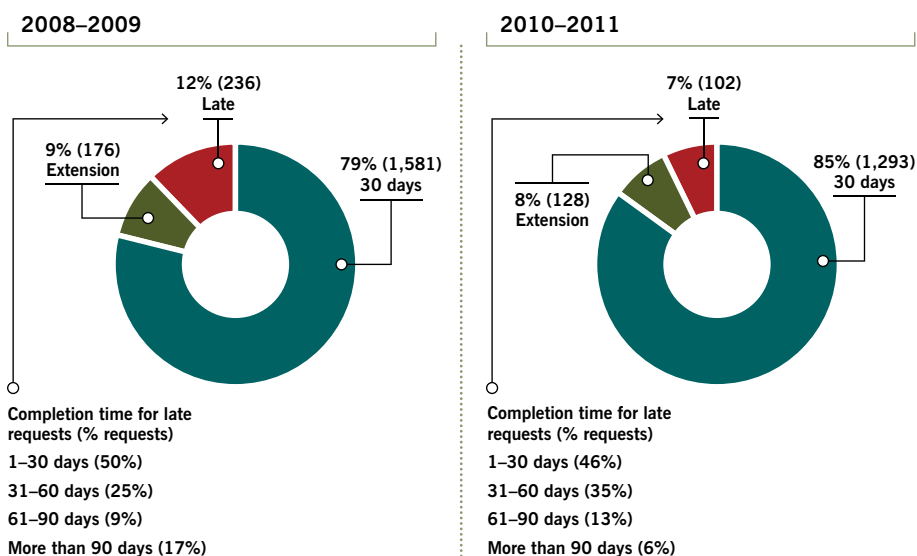
Access to information workload, 2008–2009 to 2010–2011

This graph shows the sources of the Royal Canadian Mounted Police's workload for the three fiscal years starting in 2008–2009. Comparing 2008–2009 to 2010–2011, the institution saw an 11-percent decrease in its workload. Both the number of new requests and the carry-over from the previous fiscal year decreased (by 17 percent and 23 percent, respectively), while the number of consultation requests increased by 18 percent. The number of pages reviewed for requests completed decreased by 23 percent.

2008–2009
- New requests: 2,008
- Carry-over: 256
- Consultations: 531
- Total: 2,795

2009–2010
- New requests: 1,547
- Carry-over: 286
- Consultations: 533
- Total: 2,366

2010–2011
- New requests: 1,657
- Carry-over: 196
- Consultations: 625
- Total: 2,478

NUMBER OF REQUESTS

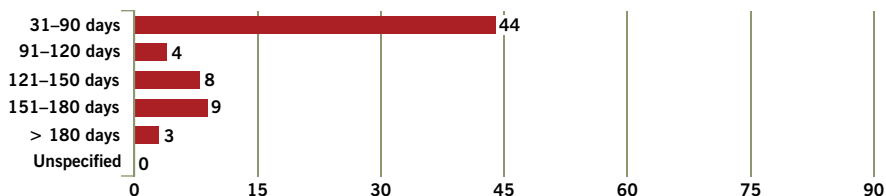## How long it took to complete new requests, 2008–2009 and 2010–2011

Between 2008–2009 and 2010–2011, the proportion of new access requests the Royal Canadian Mounted Police completed within the timelines (30 days and extended) set out in the *Access to Information Act* rose from 88 percent to 93 percent. The remaining requests were completed late: 236 requests in 2008–2009 and 102 in 2010–2011.

2008–2009

- 12% (236) Late
- 9% (176) Extension
- 79% (1,581) 30 days

Completion time for late requests (% requests)
1–30 days (50%)
31–60 days (25%)
61–90 days (9%)
More than 90 days (17%)

2010–2011

- 7% (102) Late
- 8% (128) Extension
- 85% (1,293) 30 days

Completion time for late requests (% requests)
1–30 days (46%)
31–60 days (35%)
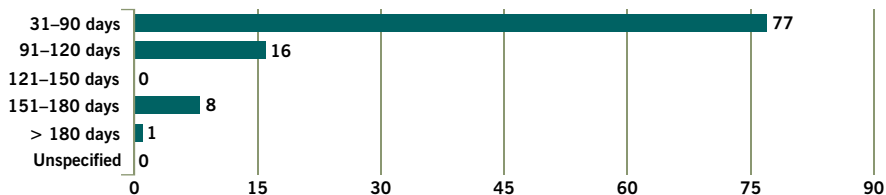61–90 days (13%)
More than 90 days (6%)

Number and length of time extensions taken, 2008–2009 and 2010–2011

This graph shows the number and length of the time extensions the Royal Canadian Mounted Police (RCMP) reported to have taken in 2008–2009 and 2010–2011. The institution supplied this information in the notices it sent to the Office of the Information Commissioner (OIC) under subsection 9(2) of the *Access to Information Act*. The RCMP submitted fewer than 85 percent of the required notices in 2008–2009, at which point the OIC issued a recommendation that the RCMP improve its performance in this area. In 2010–2011, the RCMP submitted more than 85 percent of the required notices.

2008–2009

31–90 days	44
91–120 days	4
121–150 days	8
151–180 days	9
> 180 days	3
Unspecified	0

2010–2011

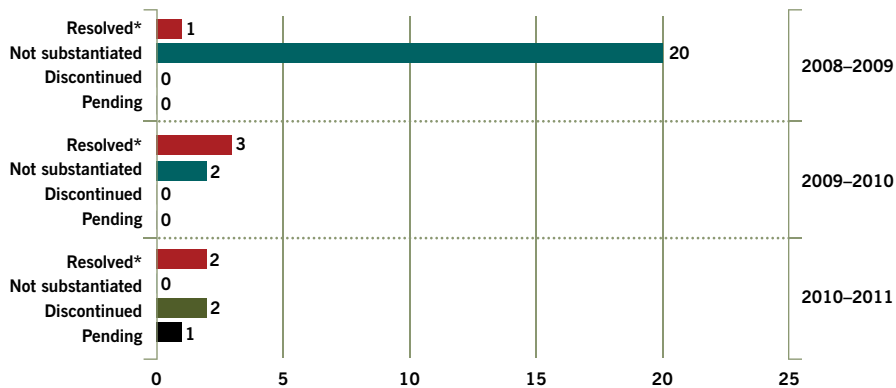|	
31–90 days	77
91–120 days	16
121–150 days	0
151–180 days	8
> 180 days	1
Unspecified	0

NUMBER OF EXTENSIONS

Number and outcome of delay-related complaints, 2008–2009 to 2010–2011

These graphs show the number and outcome of two types of complaint registered against the Royal Canadian Mounted Police (RCMP) in the three fiscal years starting in 2008–2009: complaints about deemed refusals (access to information requests that the RCMP delayed beyond the deadlines—30 days and extended—set out in the *Access to Information Act*) and complaints about the RCMP's use of the time extensions allowed under the Act. Overall, the number of complaints against the RCMP dropped by 34 percent from 2008–2009 to 2010–2011. There was a slight increase in deemed refusal complaints over the same period, and a 76-percent decrease in time extension complaints.

Deemed refusal complaints

2008–2009
Resolved*	6
Not substantiated	0
Discontinued	1
Pending	0

2009–2010
Resolved*	4
Not substantiated	1
Discontinued	0
Pending	0

2010–2011
Resolved*	4
Not substantiated	0
Discontinued	5
Pending	0

Time extension complaints

2008–2009
Resolved*	1
Not substantiated	20
Discontinued	0
Pending	0

2009–2010
Resolved*	3
Not substantiated	2
Discontinued	0
Pending	0

2010–2011
Resolved*	2
Not substantiated	0
Discontinued	2
Pending	1

NUMBER OF COMPLAINTS

* Resolved complaints are those that the Office of the Information Commissioner finds to have merit and that the institution resolves to the Commissioner's satisfaction.

Number and outcome of complaints received by the Office of the Information Commissioner, 2008–2009 to 2010–2011

	RESOLVED*	NOT SUBSTANTIATED	DISCONTINUED	PENDING	TOTAL
2008–2009					
Administrative	15	21	3	0	**39**
Refusals	11	36	9	10	**66**
Cabinet confidences	0	0	0	0	**0**
Total	**26**	**57**	**12**	**10**	105
2009–2010					
Administrative	13	7	2**	0	**22**
Refusals	6	25	8	7	**46**
Cabinet confidences	0	0	0	0	**0**
Total	**19**	**32**	**10**	**7**	68
2010–2011					
Administrative	11	4	8	6	**29**
Refusals	6	11	10**	12	**39**
Cabinet confidences	0	1	0	0	**1**
Total	**17**	**16**	**18**	**18**	69

This table sets out the number and outcome of the complaints the Office of the Information Commissioner (OIC) registered against the Royal Canadian Mounted Police (RCMP) in the three fiscal years starting in 2008–2009. The number of complaints registered with the OIC declined significantly in 2009–2010 from the previous year, and held steady in 2010–2011.

* Resolved complaints are those that the OIC finds to have merit and that the institution resolves to the Commissioner's satisfaction.

** The OIC began using new disposition categories in 2010–2011. There was one miscellaneous complaint registered in 2009–2010 and closed in 2010–2011 and one refusal complaint in 2010–2011 in the Settled category, which comprises complaints about minor errors, settled to the Commissioner's satisfaction without a finding. For reporting purposes, these complaints were placed in the Discontinued category.

2010–2011 recommendations

There is room for improvement in the RCMP's performance, building on the gains made in 2010–2011, so it can improve its rating beyond the "C" grade it is receiving this year and also received in 2008–2009.

1. The Office of the Information Commissioner recommends that the Minister of Public Safety, who is responsible for the Royal Canadian Mounted Police, demonstrate the leadership required across the institution to promote a culture of compliance and improve the institution's access to information performance.

   RESPONSE: *As the Minister of Public Safety, I agree with this recommendation. The performance and steady progress by the Access to Information and Privacy (ATIP) Program of the Royal Canadian Mounted Police (RCMP) in*

recent years clearly exemplify my commitment to ensure that the RCMP continues to embrace and nurture the spirit of the Access to Information Act*. In the coming months, I will write to each of the Deputy Heads in the Public Safety portfolio to remind them of the importance of the ATIP Program and the need to foster a culture of compliance.*

2. The Office of the Information Commissioner recommends that the Royal Canadian Mounted Police maintain the resources needed to comply with its obligations under the *Access to Information Act*, including providing training across the organization.

   RESPONSE: *The RCMP agrees with this recommendation. The RCMP, including the ATIP Branch, will be affected by Government-wide reductions, efficiencies and program cuts announced in Budget 2012. However, the RCMP remains committed to complying with its obligations under the*

Access to Information Act. *In March 2010, the RCMP carried out an internal review resulting in streamlined processes, modern software and a stable, experienced workforce. This has resulted in achieving an average time to complete a request of 20 days. Further, the RCMP reduced its deemed refusal rate and the number of complaints registered with the Office of the Information Commissioner. The RCMP implemented all three of the OIC's 2008–2009 recommendations and continues to look for ways to improve its performance.*

3. The Office of the Information Commissioner recommends that the Royal Canadian Mounted Police reduce its deemed refusal rate to zero.

RESPONSE: *The RCMP agrees with this recommendation. In 2010–2011, the RCMP's deemed refusal rate decreased from 18.3% to 12.6%. The RCMP has invested significant resources and efforts into the ATIP program in recent years; however, the RCMP, including the ATIP Branch, will be affected by Government-wide reductions, efficiencies and program cuts announced in Budget 2012. The RCMP will continue to work towards improving compliance rates.*

4. The Office of the Information Commissioner recommends that the Royal Canadian Mounted Police report on its progress implementing these recommendations in its annual report to Parliament on access to information operations.

RESPONSE: *The RCMP agrees with this recommendation. In an effort to maintain transparency and accountability of ATIP operational results, the RCMP remains committed to reporting annually to Parliament. The RCMP, as part of this annual report, will report on its progress implementing these recommendations.*

Transport Canada

Transport Canada is responsible for transportation policies and programs. It ensures that air, marine, road and rail transportation are safe, secure, efficient and environmentally responsible. Transport Canada works with other government departments and jurisdictions, and with industry to ensure that all parts of Canada's transportation system work well.

Assessment
(Received a D in 2008–2009)

- Transport Canada's performance in 2010–2011 was poor, and a drop from that in 2008–2009. Since then, despite a reduction in new requests and pages reviewed, Transport Canada's deemed refusal rate has increased sharply, from 31.2 percent to 52.6 percent. The number of complaints the Office of the Information Commissioner (OIC) received about Transport Canada rose by 48 percent, from 52 to 77 over the same period.

- Although Transport Canada's access office received additional funding and was able to recruit new staff in 2009–2010, it remained under-resourced in 2010–2011, access officials reported. Nonetheless, they placed renewed emphasis on training, with the hope of retaining staff, along with developing a plan to rebuild.

- Transport Canada satisfactorily implemented two of the OIC's five 2008–2009 recommendations, yet it needs the renewed commitment of institutional leadership to realize results in response to all of the OIC recommendations. The OIC has issued several new ones to prompt Transport Canada to reverse the decline in its performance (see page 129).

* In September 2008, Transport Canada stopped processing certain types of administrative requests as formal access requests. The numbers in parentheses in this column show the volume of requests and other statistics with those files removed from the counting.

** Percentage of carried over and new requests delayed beyond the deadlines (30 days and extended) set out in the *Access to Information Act*. (See Appendix B for the formula the OIC used to calculate this rate.)

\+ A complaint is resolved when the OIC finds it has merit and the institution resolves it to the Commissioner's satisfaction. The number of complaints reported here is current as of November 2011. As a result, the figure for 2008–2009 may be different from what appeared in the 2008–2009 report card.

QUICK FACTS	2008–2009*	2010–2011
Number of requests carried over from previous fiscal year	221 (205)	**347**
Number of new requests	1,069 (647)	**573**
Number of requests completed	1,043 (632)	**573**
Number of pages reviewed for requests completed	120,000	**64,780**
Deemed refusal rate	17.6% (31.2%)**	**52.6%****
Average number of days to complete a request	60 (94)	**177**
Average number of days to complete a request received in 2010–2011	n/a	**43**
Number of consultation requests received	178	**230**
Percentage of required extension notices submitted to the OIC	<85%	**>85%**
Number of complaints registered with the OIC	52	**77**
Number of complaints the OIC resolved	17+	**46+**
Number of full-time equivalents in access to information operations, as of the end of the fiscal year	16.4	**17.85**

FOLLOW-UP ON 2008–2009 RECOMMENDATIONS

Leadership..Did not fully meet expectations
Deemed refusal rate.................................Did not meet expectations
Backlog .... Met expectations
Consultations .... Disagreed
Extension notices.. Met expectations

See report card text for details. For the full text of the recommendations, as well as the institution's initial response and October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_13.aspx.

Report card

Transport Canada's performance in 2010–2011 was poor, and a drop from that of 2008–2009 when it received a below average rating. Since then, despite a reduction in new requests and pages reviewed, Transport Canada's deemed refusal rate has increased, from 31.2 percent in 2008–2009 to 52.6 percent in 2010–2011. The number of complaints the Office of the Information Commissioner (OIC) received about Transport Canada rose by 48 percent, from 52 to 77.

Transport Canada reported that in September of 2008, about halfway through the 2008–2009 reporting period, boat operators seeking their own registration information no longer had to submit formal access to information requests. However, Transport Canada still included these requests in its statistical submission for the 2008–2009 report card. The front page of the report card, therefore, shows what the 2008–2009 statistics would have been without those informal requests, for purposes of comparison. The OIC commends Transport Canada for switching to informal disclosure for these simple requests.

In 2010–2011, the average time Transport Canada took to complete a request rose from 94 to 177 days, although this can be partly attributed to the institution's concentrated effort to complete long-standing files in its backlog. Excluding the backlogged files, the average completion time for requests received and completed in 2010–2011 was 43 days.

The OIC notes the increase in the number of extensions Transport Canada took in 2010–2011 for more than 90 days and, in particular, the jump in its extensions for third-party consultations and in the number of extensions it took for an unspecified length of time (as per the notices it sent to the OIC about its use of extensions in 2010–2011).

Transport Canada reported that a shortage of staff continued to impair its ability to comply with its legislated access to information obligations. Although the access office received additional funding and was able to recruit nine new staff members in 2009–2010, it remained under-resourced, access officials said, particularly in light of unexpected long-term absences. Because of budgetary constraints and the difficulty of filling such positions temporarily, they remained vacant. A senior analyst left early in 2011, and although potential replacements were interviewed, no suitable candidate was identified for deployment. In addition, 3.5 full-time equivalents were diverted to address the backlog, which meant that those analysts could not regularly work on new requests. This resulted in Transport Canada being able to significantly reduce the number of old files. However another result was that those analysts who were available to process current requests had an average workload of 50 to 60 files.

Despite the shortage of staff, Transport Canada was able to place renewed emphasis on training and also implemented an employee development program, in the hope of retaining and developing its existing staff. In 2010–2011, many of the access staff, particularly those in leadership positions, participated in training sessions, including those on negotiation, writing, and supervisory and leadership skills. Six candidates in the employee development program attended a variety of training programs and received considerable mentoring and coaching from access team leaders.

Transport Canada reported strong management support for the access function, which has resulted in additional permanent funding. There were some measures to increase the profile of the access program, such as reporting to senior management. Executive performance management accords were amended to include compliance with access timelines.

Since the 2010–2011 reporting period there have been more recent developments and some forward momentum that, with solid leadership, support and oversight from senior management, should foster improvement for the future.

Follow-up on the 2008–2009 recommendations

The OIC issued five recommendations to Transport Canada with the 2008–2009 report card. The following summarizes the subsequent developments at the institution in response. (For the full text of the recommendations, the institution's initial response and its October 2010 progress report, go here: http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_follow-up-suivi_2008-2009_13.aspx.)

1. Transport Canada access officials reported they have put in place a plan to rebuild, and that they receive strong senior management support. But the program is struggling and needs senior management to refocus its efforts in support of the program.

2. Transport Canada's deemed refusal rate increased 21.4 percentage points from 2008–2009 to 2010–2011, contrary to what the OIC expected when it issued its recommendation for the institution to strive to reduce the rate to zero.
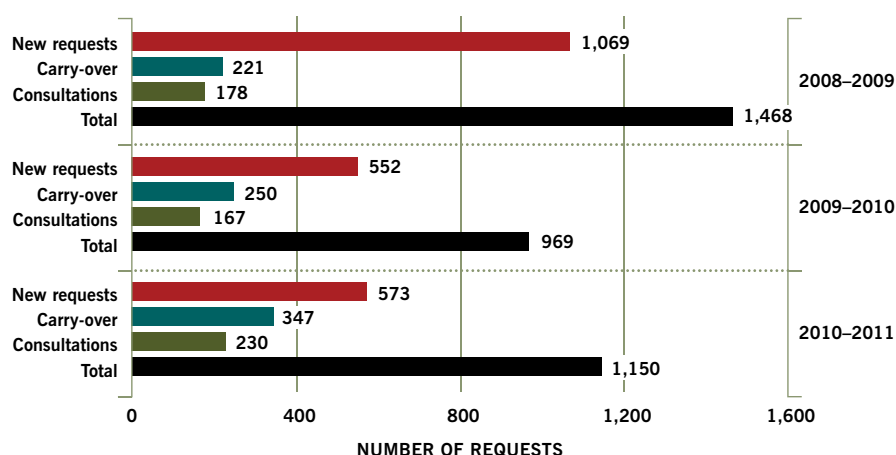
3. The OIC notes that Transport Canada did an excellent job reducing its backlog by dedicating full-time resources to this task, and introducing a program through which access office staff could volunteer to do overtime to work on long-standing files. At the time of writing, Transport Canada had reduced the backlog for requests prior to 2010 by 99 percent.

4. Transport Canada did not agree with the OIC's recommendation to develop protocols to facilitate consultations with other institutions. The institution has committed to work with others to reduce the time taken to complete consultations, and to develop protocols as the need arises.

5. In 2010–2011, Transport Canada submitted more than 85 percent of the required notices of extensions taken for more than 30 days, which meets the OIC's standard for acceptable performance in this area.
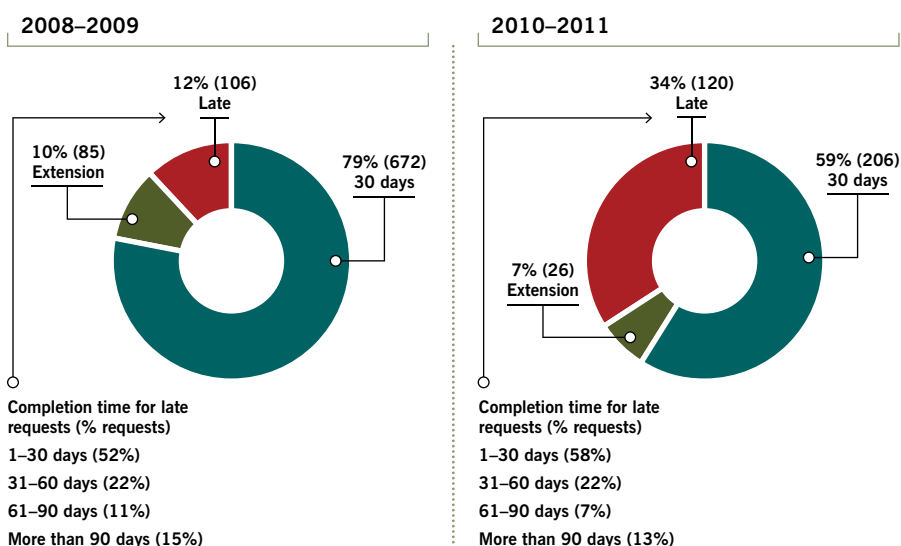
Access to information workload, 2008–2009 to 2010–2011

This graph shows the sources of Transport Canada's workload for the three fiscal years starting in 2008–2009. Comparing 2008–2009 to 2010–2011, the institution saw a 22-percent decrease in its workload. The number of new requests Transport Canada received in 2010–2011 decreased by 46 percent (as did the number of pages reviewed for requests completed). However, the number of requests carried over from the previous fiscal year increased by 57 percent, while the number of consultation requests grew by 29 percent.

2008–2009
- New requests: 1,069
- Carry-over: 221
- Consultations: 178
- Total: 1,468

2009–2010
- New requests: 552
- Carry-over: 250
- Consultations: 167
- Total: 969

2010–2011
- New requests: 573
- Carry-over: 347
- Consultations: 230
- Total: 1,150
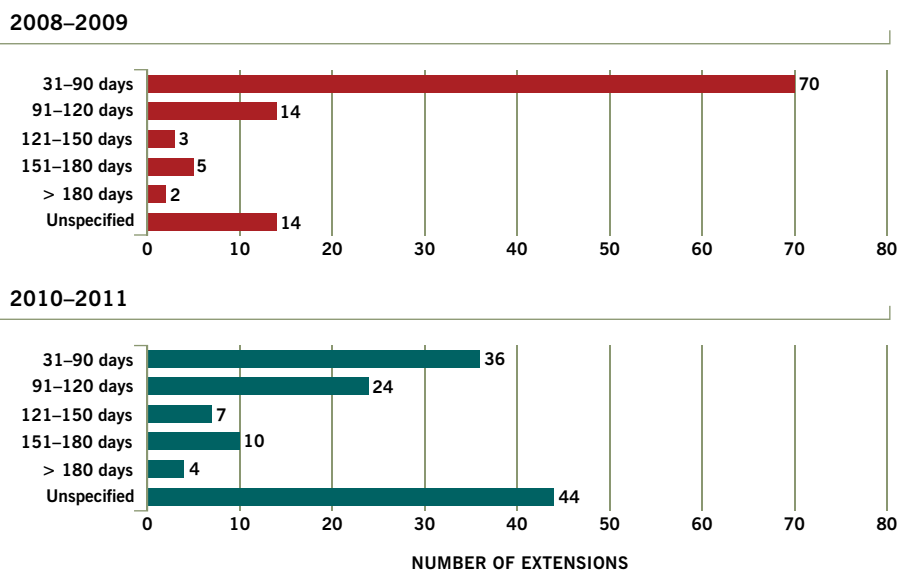
NUMBER OF REQUESTS

How long it took to complete new requests, 2008–2009 and 2010–2011

Between 2008–2009 and 2010–2011, the proportion of new access requests Transport Canada completed within the timelines (30 days and extended) set out in the *Access to Information Act* dropped from 88 percent to 66 percent. The remaining requests were completed late: 106 requests in 2008–2009 and 120 in 2010–2011. The Office of the Information Commissioner is concerned that the pool of requests completed late grew by 13 percent, and that it equalled more than one third of the new requests Transport Canada completed in 2010–2011.

2008–2009

- 12% (106) Late
- 10% (85) Extension
- 79% (672) 30 days

Completion time for late requests (% requests)
1–30 days (52%)
31–60 days (22%)
61–90 days (11%)
More than 90 days (15%)

2010–2011

- 34% (120) Late
- 59% (206) 30 days
- 7% (26) Extension

Completion time for late requests (% requests)
1–30 days (58%)
31–60 days (22%)
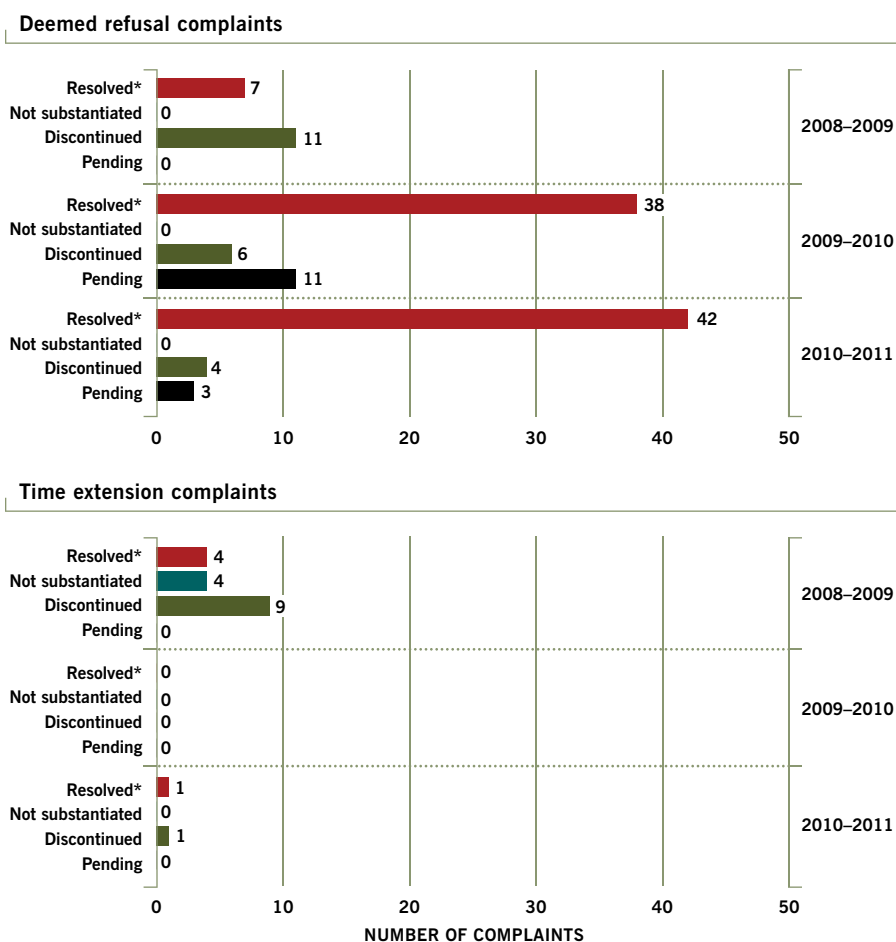61–90 days (7%)
More than 90 days (13%)

Number and length of time extensions taken, 2008–2009 and 2010–2011

This graph shows the number and length of the time extensions Transport Canada reported to have taken in 2008–2009 and 2010–2011. The institution supplied this information in the notices it sent to the Office of the Information Commissioner (OIC) under subsection 9(2) of the *Access to Information Act*. In 2008–2009, Transport Canada submitted fewer than 85 percent of the required notices, at which point the OIC issued a recommendation that Transport Canada improve its performance in this area. In 2010–2011, Transport Canada submitted more than 85 percent of the required notices. The OIC notes the increase in the number of extensions Transport Canada took in 2010–2011 in all categories, except one, and, in particular, the jump in extensions for an unspecified length of time.

2008–2009

Category	Value
31–90 days	70
91–120 days	14
121–150 days	3
151–180 days	5
> 180 days	2
Unspecified	14

2010–2011

Category	Value
31–90 days	36
91–120 days	24
121–150 days	7
151–180 days	10
> 180 days	4
Unspecified	44

NUMBER OF EXTENSIONS

Number and outcome of delay-related complaints, 2008–2009 to 2010–2011

These graphs show the number and outcome of two types of complaint registered against Transport Canada in the three fiscal years starting in 2008–2009: complaints about deemed refusals (access to information requests that Transport Canada delayed beyond the deadlines—30 days and extended—set out in the *Access to Information Act*) and complaints about Transport Canada's use of the time extensions allowed under the Act. Overall, the number of complaints registered against Transport Canada increased by 48 percent from 2008–2009 to 2010–2011. Transport Canada was the subject of far more deemed refusal complaints than time extension complaints in 2010–2011.

Deemed refusal complaints

	2008–2009	2009–2010	2010–2011
Resolved*	7	38	42
Not substantiated	0	0	0
Discontinued	11	6	4
Pending	0	11	3

Time extension complaints

	2008–2009	2009–2010	2010–2011
Resolved*	4	0	1
Not substantiated	4	0	0
Discontinued	9	0	1
Pending	0	0	0

NUMBER OF COMPLAINTS

* Resolved complaints are those that the Office of the Information Commissioner finds to have merit and that the institution resolves to the Commissioner's satisfaction.

Number and outcome of complaints received by the Office of the Information Commissioner, 2008–2009 to 2010–2011

	RESOLVED*	NOT SUBSTANTIATED	DISCONTINUED	PENDING	TOTAL
2008–2009					
Administrative	12	4	20	0	**36**
Refusals	3	8	1	1	**13**
Cabinet confidences	2	1	0	0	**3**
Total	**17**	**13**	**21**	**1**	**52**
2009–2010					
Administrative	40	40	7	11	**98**
Refusals	4	3	3	3	**13**
Cabinet confidences	0	1	0	0	**1**
Total	**44**	**44**	**10**	**14**	**112**
2010–2011					
Administrative	43	2	5	4	**54**
Refusals	3	2	3	15	**23**
Cabinet confidences	0	0	0	0	**0**
Total	**46**	**4**	**8**	**19**	**77**

This table sets out the number and outcome of the complaints the Office of the Information Commissioner (OIC) registered against Transport Canada in the three fiscal years starting in 2008–2009. Although the number of complaints decreased in 2010–2011 after more than doubling between 2008–2009 and 2009–2010, there were still 50 percent more complaints in 2010–2011 than there were two years prior to that. Of the complaints registered in 2010–2011 that have been closed, 59 percent were resolved.

* Resolved complaints are those that the OIC finds to have merit and that the institution resolves to the Commissioner's satisfaction.

2010–2011 recommendations

The OIC is concerned about Transport Canada's poor performance in 2010–2011, and makes the following recommendations to prompt efforts by the institution to improve.

1. The Office of the Information Commissioner recommends that the Minister of Transport and the Deputy Minister demonstrate leadership in establishing a culture of commitment to access to information at Transport Canada, which must be upheld by all levels of senior management.

   RESPONSE: *Transport Canada's Executive Management Committee (TMX) continues to actively support the ATIP program. The Deputy Minister and members of TMX review the status of ATIP requests on a weekly basis. The Director of ATIP also meets with the Director of Operations in the DMO, Communications and the Senior Advisor for the ADM, Corporate Management and Crown Corporation Governance on a bi-weekly basis. Briefings and awareness sessions with ADMs/RDGs and their management teams are held on the modified process on an ongoing basis. All members of the senior cadre understand fully that they have a shared responsibility and accountability for improving and meeting legislated timelines. Functional*

authority for the ATIP Division was moved to the Chief Information Officer and Director General of Technology and Information Management Services Directorate in January 2010, to align itself to the TBS model for the management of information services. This realignment has been beneficial in ensuring an integrated approach for MAF and other reporting requirements. TC received a strong rating in its last MAF evaluation for the measures it has undertaken to improve its ATIP program.

2. The Office of the Information Commissioner recommends that Transport Canada, in particular senior management, remain committed to its plan to improve its access to information performance.

   RESPONSE: *The Performance Accords of all EXs continue to be reviewed to assess compliance and performance for Access and Privacy requirements. A monthly performance report is provided to all senior management members of the Transport Executive Management Committee (TMX) and performance and compliance issues are addressed at the DG and ADM level where compliance issues are identified. Senior management continues to be actively involved in the administration of the ATIP program at TC. In 2010, extensive consultations were undertaken with employees*

at all levels of the organization to review the existing process and make amendments to improve performance; consequently, TMX approved the modified process for dealing with Access requests, which was implemented in April 2011. Progress against the Action Plan is reported to TMX. A 6 percent performance improvement has been noted since its inception.

3. The Office of the Information Commissioner recommends that Transport Canada's management team ensure that the access to information office has the resources it needs to meet its obligations under the *Access to Information Act*, and maintain its internal development program in order to stabilize staffing levels.

RESPONSE: *TMX requests regular presentations on Strengthening ATIP at Transport Canada—it assesses and provides support as required. The Departmental Audit Committee has also requested presentations on ATIP processes and management practices and continues to review the program on an ongoing basis and allocates resources accordingly; in the past two years, senior management has approved resources for the hiring of consultants to assist in the backlog, in the processing of active requests and in meeting reporting requirements for TBS Info Source and the Annual Report to Parliament, as well as other activities to improve performance and ensure a more strategic use of internal permanent FTE resources.*

4. The Office of the Information Commissioner recommends that Transport Canada make a renewed, concerted effort to reduce its deemed refusal rate to zero.

RESPONSE: *Transport Canada is committed to reducing its deemed refusal rate. In the first six months of 2011–2012, since the implementation of the modified process, there has been a 6 percent improvement in meeting legislated deadlines. The backlog continues to require focused resources, but risk-based and fast-track approaches and strategies have resulted in an improved completion rate of active requests. As of March 2012, backlog files prior to 2010 were reduced by 99 percent, while backlog files received after 2010 were reduced by 83 percent.*

5. The Office of the Information Commissioner recommends that Transport Canada document and review the criteria it uses for extensions to ensure they are reasonable and legitimate.

RESPONSE: *The ATIP Division at TC regularly reviews its processes to ensure that it meets its primary principle of duty to assist requesters and to ensure it applies legitimate and reasonable legal extensions. In December 2011, it undertook a detailed review of its ATIA modified process to identify any issues and address them with the active participation of the ADM Corporate Management and Crown*

Corporation Governance and members of the TMX. A follow-up presentation to TMX members in February 2012 was given to share the results of this detailed review and to ensure a more consistent approach in the regions and sectors. Where it can fast-track or risk-manage its processes, TC's ATIP Division makes revisions to its guidelines and ensures an integrated approach by all members of the team. For example, the revised TBS Directive on the Administration of the ATIA issued in January 2012 stipulates that the application of sections 15 and 16 no longer require formal consultations as was mandated in the past. This direction enables the ATIP analysts to review and complete requests in a timely manner, without lengthy consultative processes and legal extensions. When the directive was issued, it was communicated to the ATIP Division and implemented immediately. In addition, the ATIP Director has instituted monthly ATIP liaison meetings, to address performance and compliance issues and work with the liaisons to achieve positive results and share best practices amongst this internal community, which has a critical role to play in ensuring compliance and improved performance. This monthly meeting has had positive results in receiving strong recommendations and a better response rate.*

6. The Office of the Information Commissioner recommends that Transport Canada engage its colleagues in other institutions to facilitate efficient consultations.

RESPONSE: *In 2010–2011, TC received 230 consultations; in 2011–2012 (to March 26, 2012) it has received 312 consultation requests; in light of this increase, TC is drafting a protocol similar to that established at Justice Canada to improve its ability to respond within legislated timelines because of the increase in the number of consultations it has received in the past two years. It currently verbally advises consulting bodies of the anticipated time by which TC will be able to provide a response. This will ensure that expectations are met and that exceptional circumstances are dealt with prior to these organizations consulting with Transport Canada.*

7. The Office of the Information Commissioner recommends that Transport Canada report on its progress implementing these recommendations in its annual report to Parliament on access to information operations.

RESPONSE: *Transport Canada's ATIP Division has always included supplementary information in its Annual Reports, over and above TBS reporting requirements and will continue to do so. It is important to correlate the recommendations of the OIC to TC's annual report to Parliament and the Management Accountability Framework to advise the Canadian public that we work together towards the same goals—improved performance and access to government information.*

Appendix A: Status update from Treasury Board Secretariat on systemic issues

The Office of the Information Commissioner (OIC) issued five recommendations to Treasury Board Secretariat (TBS) related to the systemic issues identified in the 2008–2009 special report. Since then, TBS has provided updates to its response to these recommendations, first to report on its work in 2009–2010 and now to summarize developments in 2010–2011 and subsequently. Both are presented below.

OIC recommendation 1

That the Treasury Board of Canada Secretariat assess the extent to which institutions implement the best practices on the delegation of powers, duties and functions pursuant to section 73 of the *Access to Information Act* with the view to achieving appropriate, efficient and transparent delegation orders.

Context

In the Commissioner's April 2010 Special Report to Parliament it was noted that the Commissioner's office uncovered oral evidence that delegation orders have a direct and significant impact on the ability of institutions to meet the statutory deadlines for responding to requests for information. The Report also referenced the best practices developed by the Treasury Board Secretariat. Among the 18 best practices, one recommends that ATIP Coordinators be delegated full authority by the head of the institution for the administration of the Act.

TBS 2009–2010 response

In the spring of 2010 TBS issued a number of best practices, which included the following regarding delegation:

- That the Access to Information Coordinator be given full delegated authority by the head of the institution for the administration of the Act; and

- That the head of the institution delegate functions as far down within the Access to Information Office as possible. For example, extension and third party notices can be delegated to Access to Information Officers, as well as to the Coordinator. In response to the Commissioner's

recommendation, TBS reviewed the delegation orders of 24 institutions that were assessed by the Office of the Information Commissioner for the period 2008–2009 as part of its Report Card initiative. It also analyzed statistical data provided by the same institutions. It was found that in most institutions ATIP Coordinators have full delegation. It was also found that delegation by itself is not a determinant factor in meeting statutory timelines. Delegation is, however, an important element and can eliminate unnecessary levels of approval. To ensure that delegation is properly addressed, the Policy on Access to Information requires heads of institutions to consider whether any of their powers, duties or functions under the Act should be delegated. Furthermore, the Directive on the Administration of the *Access to Information Act* requires heads to respect certain principles when delegating, such as:

- Heads can only designate officers and employees of their government institution;

- Powers, duties and functions are delegated to positions identified by title, not to individuals identified by name;

- Persons with delegated authorities are to be well informed of their responsibilities;

- Powers, duties and functions that have been delegated may not be further delegated; and

- The delegation order is to be reviewed when circumstances surrounding the delegations have changed.

TBS 2010–2011 response

On July 20, 2011 the Secretary of the Treasury Board sent an email to all Deputy Ministers and Heads of Agencies encouraging them to consult the TBS Website for new fact sheets and best practices for the delegation orders (http:// publiservice.tbs-sct.gc.ca/atip-aiprp/tools/atiptools-aiprpoutil-eng.asp).

OIC recommendation 2

That, as part of the Management Accountability Framework, the Treasury Board of Canada Secretariat review current criteria to ensure that they are measuring the overall performance of federal institutions in meeting their obligations under the *Access to Information Act*.

TBS 2009–2010 response

The Management Accountability Framework (MAF) sets out the Treasury Board Secretariat's expectations of senior public service managers in a number of areas for good public service management, including on the administration of the *Access to Information Act*. Activities related to the Act's administration have been assessed under MAF since fiscal year 2005–2006. Assessments comprise a review and analysis of institutions' annual reports to Parliament, their Info Source chapters and a number of other reports to determine if institutions are providing complete, comprehensive and up-to-date descriptions of their functions, programs, activities and related information holdings. This year, the Secretariat added new requirements that are focused on governance and capacity, which are intended to evaluate the ability of institutions to administer the ATIP program, including the way institutions are organized to respond to ATI requests, whether procedures are established for ATI specialists and program officials and whether training is being delivered and taken. Areas assessed are reviewed on an annual basis to ensure the continued effectiveness of MAF.

It is, however, important to note that MAF is not the only assessment tool. Parliament put in place a mechanism to ensure accountability for the administration of the *Access to Information Act.* Section 72 of the Act requires the head of each government institution to present to Parliament an annual report on the administration of the Act within their institution. TBS also collects, in accordance with the Act, statistical data to assess institutions' compliance. Data collection will significantly be expanded in the coming year. Further details on this point are provided in the TBS response to recommendations 3 and 4. TBS is committed to continue working with the Office of the Information Commissioner and institutions in order to ensure the effectiveness of reporting and compliance activities.

TBS 2010–2011 response

Additional questions on governance and capacity were introduced in MAF 2010–2011 in order to evaluate the ability of institutions to administer the ATIP program. For MAF 2011–2012, the Secretariat added new questions to assess compliance with policy instruments to broaden assessment beyond legislative reporting requirements. As such, TBS evaluated institutions' responses to ATI requests, procedures established for ATI specialists and program officials, and training delivered and taken.

The methodology for assessments continues to be reviewed on an annual basis to ensure the continued effectiveness of MAF.

OIC recommendation 3

That the Treasury Board of Canada Secretariat collect annual statistics in accordance with Recommendations 3, 4 and 5 included in the 2007–2008 Special Report.

OIC recommendation 4

That the Treasury Board of Canada Secretariat, together with relevant institutions, assess the magnitude of consultations between federal institutions and the impact of such consultations on institutions' workloads with a view to allocating appropriate resources for this function.

TBS 2009–2010 response

TBS has been collecting statistical data from institutions on their application of the *Access to Information Act* and the *Privacy Act* since the Acts came into force in 1983. Data is consolidated and published yearly in the Info Source Bulletin. Beginning in April 2011, TBS will be expanding its requirements for the collection of annual Access to Information statistical data. Institutions will be required to compile and report annually on new data elements, such as number of pages processed, timelines, extensions, consultations and delays. The new data will provide a better understanding of the workload of institutions, the complexity of requests, causes of delay and will enable TBS to better assess compliance of institutions with the *Access to Information Act*. The results of the new data elements will be published in the Fall 2012 edition of the Info Source Bulletin. TBS will continue to work closely with institutions to assist them with the transition to the new data collection requirements.

TBS 2010–2011 response

Starting in May 2012, TBS will collect the results of the new data elements on areas such as consultations, fees, time extensions, and deemed refusals, that will be published in the Fall 2012 edition of the Info Source Bulletin.

TBS will continue to work closely with the institutions to assist them with the transition to the new data collection requirements.

In terms of workloads associated with consultations, TBS has amended the Directive on the Administration of the *Access to Information Act* (directive) to limit inter-institutional consultations in a continuous effort to reduce delays. While consultations related to sections 15 (exemptions related to international affairs and defence) and 16 (exemptions related to law enforcement and investigations) were previously mandatory under the former Directive, consultations are now limited to 2 circumstances:

• Where the processing institution requires more information for the proper exercise of discretion to withhold information;

• Where the processing institution intends to disclose sensitive information.

OIC recommendation 5

That the Treasury Board of Canada Secretariat, in collaboration with relevant institutions and agencies, develop and implement, as a matter of urgency, an integrated human resources action plan to address the current shortage of access to information staff.

TBS 2009–2010 response

The Access to Information and Privacy Community is comprised of dedicated professionals who strive to provide good service to Canadians. TBS has actively been supporting the ATIP Community in a variety of ways. It meets with the Community regularly, develops tools and guidance and offers a wide range of awareness sessions on ATIP-related topics. Since April 1, 2008, 134 sessions have been delivered, with 1,617 participants attending. Another 26 sessions are planned for this coming year.

In addition, the Secretariat launched last spring an initiative to address the recruitment and retention challenges of the Community to ensure it has the capacity to deliver ATIP services now and in the future. With key stakeholders and several representatives from ATIP offices across the federal public service, generic organizational models, work descriptions, and competencies to standardize the work across the public service are being developed. These tools will form the basis for the launch of a collective staffing process, as well as the design and implementation of a broader community development and learning strategy.

TBS 2010–2011 response

The TBS' commitment to training remains strong. TBS has for several years offered a training program to meet the specific needs of the ATIP community, providing on an ongoing basis, free of charge and in both official languages, sessions on a variety of ATIP-related topics (http://publiservice.tbs-sct.gc.ca/atip-aiprp/tools/cel-eng.asp). Since April 1, 2008, 159 sessions have been delivered, with over 1,960 participants attending. Another 16 sessions are scheduled to the end of the 2011–2012 fiscal year.

In Fall 2011, the Treasury Board Secretariat consulted the ATIP community to better understand the challenges it faces and assess its strengths and identify its needs. The conclusions contributed to the development of the training plan for 2012–2013. This plan will be posted before the end of the fiscal year 2011–2012 in order for ATIP staff to inform their individual learning plans.

The Secretariat is also addressing broader issues related to community development. For example, the Community Development Initiative (CDI) launched in 2010 addresses the recruitment and retention challenges of the Community to ensure it has the capacity to deliver ATIP services now and in the future. With key stakeholders and several representatives from ATIP offices across the federal public service, generic organizational models and work descriptions were finalized and will be submitted to the Office of the Chief Human Resources Officer (OCHRO) for validation. Contracting for a competencies dictionary to standardize the work across the public service is currently under way. These tools will form the basis for the launch of a collective staffing process, as well as the design and implementation of a broader community development and learning strategy. The Secretariat will keep the Community updated on developments.

In addition, the Canada School of Public Service and the Treasury Board Secretariat have undertaken work to meet federal employee learning needs with respect to Access to Information. A cornerstone is the Access to Information and Privacy overview course which is currently offered by the Canada School. The course, which was piloted during the summer of 2010, is available across Canada in both official languages. The Canada School is responsible for reviewing and updating all of its courses which have components related to the *Access to Information Act* and the *Privacy Act* to ensure they reflect changes brought to the ATIP legislation, recent jurisprudence as well as the new policy instruments.

Specifically, the Canada School is targeting training to ensure a learning continuum that starts with the Orientation of all new public servants, and the four mandatory Authority Delegation Training courses for public service managers. The Canada School maintains attendance records for all authority delegation training courses and is in a position to provide statistical information on the successful completion of the mandatory online assessment tools that aim at confirming the knowledge acquisition through this training.

Finally, the Secretariat regularly provides briefings on ATIP for senior officials. The Secretariat also offers individual briefings on access to information and privacy to Governor in Council appointees.

Appendix B: How the OIC determined the rating for each institution

A global rating is attributed to each federal institution as a means to measure its performance. This rating for the reporting period is based on several factors. As a starting point, we are assessing compliance with statutory requirements, namely whether requests were responded to within statutory timelines (deemed refusal ratio) and whether notices under subsection 9(2) were sent to the Information Commissioner.

In addition to these statutory requirements, we are taking into account the practices and processes used by the institution that may impact, positively or negatively, its capacity to fulfill its obligations under the Act. Among these practices and processes, we have considered the average completion time and good practices. Contextual factors, such as variations in workload, will also be taken into account.

OVERALL GRADE	FACTORS
A (Outstanding)	• 5% or less deemed refusals • In the case of deemed refusals, we will look at the delay to respond to requesters: most within 30 days • Compliance with subsection 9(2) (85% and more of extensions beyond 30 days were notified to the OIC) • Appreciation of the overall use of time extensions and average completion time: deemed appropriate • Comprehensive set of good practices in place to ensure that access requests are responded in a timely manner (proactive disclosure; informal disclosure; partial release; collaborative instruments, absence of requests categorization or no delay created by it, focus on service to the requesters, etc.) • Other elements which may impact the institution's capacity to comply with the Act and measures taken to deal with them (for example, increase in the workload of the institution and high volume of consultation requests received)
B (Above average)	• 10% or less deemed refusals • In the case of deemed refusals, we will look at the delay to respond to requesters: most within 30 days • Compliance with subsection 9(2) (85% and more of extensions beyond 30 days were notified to the OIC) • Appreciation of the overall use of time extensions and the average completion time: in most instances, deemed appropriate • Comprehensive set of good practices in place to ensure access requests are responded in a timely manner • Other elements which may impact the institution's capacity to comply with the Act and measures taken to deal with them

OVERALL GRADE	FACTORS
C **(Average)**	• 20% or less deemed refusals • In the case of deemed refusals, we will look at the delay to respond to requesters: most within 30 days • Compliance with subsection 9(2) (85% and more of extensions beyond 30 days were notified to the OIC) • Appreciation of the overall use of time extensions and the average completion time: to some degree, deemed appropriate • A number of good practices in place to ensure access requests are responded in a timely manner • Other elements which may impact institution's capacity to comply with the Act and measures taken to deal with them
D **(Below average)**	• 20% or more deemed refusals • In the case of deemed refusals, we will look at the delay to respond to requesters: most beyond 30 days • Compliance with subsection 9(2) (less than 85 percent) • Concerns with the overall use of time extensions and the average completion time • Limited good practices in place to ensure access requests are responded in a timely manner • Other elements which may impact institutions' capacity to comply with the Act and measures taken to deal with them
F **(Unsatisfactory)**	• 20% or more deemed refusals • In the case of deemed refusals, we will look at the delay to respond to requesters: most beyond 30 days • Compliance with subsection 9(2) (less than 85 percent) • Concerns with the overall use of time extensions and the average completion time • Practices in place to ensure access requests are responded in a timely manner are insufficient • Other elements which may impact institutions' capacity to comply with the Act and measures taken to deal with them

How the OIC calculated the deemed refusal rate for each institution

The deemed refusal rate is the percentage of requests that the institution did not complete within the deadlines (30 days and extended) set out in the *Access to Information Act*. There are four categories of overdue request: requests entering the year overdue, requests completed after 30 days with no extension, requests completed after their extension expired, and requests that were still open at year-end and past their due date. The deemed refusal rate is calculated by dividing the total number of overdue requests by the total number of requests open during the year.

Here is an example:

Overdue requests carried over into 2010–2011	**47**
Requests completed after 30 days with no extension	**18**
Requests completed after their extension expired	**24**
Overdue requests carried over into 2011–2012	**52**
Total overdue requests	**141**

Requests carried over into 2010–2011	**256**
New requests in 2010–2011	**1,259**
Total open requests	**1,515**

Deemed refusal rate: 141 ÷ 1,515 = .093 x 100 = 9.3 percent