

Offices of the Information and Privacy Commissioners

2004-2005

Departmental Performance Report

The Honourable Irwin Cotler, PC, MP
Minister of Justice and Attorney General of Canada

Office of the Information Commissioner

Departmental Performance Report

I am pleased to submit my Departmental Performance Report for the fiscal period April 1, 2004 to March 31, 2005.

The Honourable John M. Reid
Information Commission of Canada

Date

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SECTION I – OVERVIEW

Commissioner's Message

I am pleased to submit to Parliament, the Performance Report of the Office of the Information Commissioner for the period ending March 31, 2005.

As an officer of Parliament, I ensure that individuals' rights and obligations, under the *Access to Information Act*, are respected. During the seven years I have served there have been both positive and negative developments in the "life" of the *Access to Information Act*.

On the positive side, the courts have demonstrated strong support for the Act and the powers of the Information Commissioner; Parliament has created a new committee charged with reviewing the Commissioner's reports and championing access, privacy and ethics; the government and the Standing Committee on Access to Information, Privacy and Ethics have enjoyed a process of reform of the *Access to Information Act*; delays in the system are on the wane; there is much good work being done to improve the management of government records and academic-based training and education progress for access to information and privacy administration is more widely available.

On the negative side, however, a powerful culture of secrecy remains in the federal government; access requesters and the Information Commissioner are not trusted by bureaucrats; more and more statutes are enacted with secrecy provisions which meet no injury test or have no sunset clause and the Office of the Information Commissioner continues to be inadequately resourced to do the job given by Parliament.

All of which to say that vigilance is required now more than ever in order to hold governments feet to the fire when it comes to discharging their obligation to be transparent and to ensure that more secrecy is not introduced in the guise of reform.



Management Representation Statement

I submit for tabling in Parliament, the 2004-2005 Departmental Performance Report (DPR) for the Office of the Information Commissioner of Canada.

This document has been prepared based on the reporting principles contained in the Treasury Board of Canada Secretariat's *Guide for the preparation of 2004-2005 Departmental Performance Reports*:

- It adheres to the specific reporting requirements;
- It uses an approved Program Activity Architecture;
- It presents consistent, comprehensive, balanced and accurate information;
- It provides a basis of accountability for the results pursued or achieved with the resources and authorities entrusted to it; and
- It reports finances based on approved numbers from the Estimates and the Public Accounts of Canada.

The Honourable John M. Reid
Information Commissioner of Canada

Summary Information

Raison d'être

Access to Government Information

The Information Commissioner is an ombudsman appointed by Parliament to investigate complaints that the government has denied rights under the *Access to Information Act* – Canada's freedom of information legislation.

The Act came into force in 1983 and gave Canadians the broad legal right to information recorded in any form and controlled by most federal government institutions.

The Act provides government institutions with 30 days to respond to access requests. Extended time may be claimed if there are many records to examine, other government agencies to be consulted, or third parties to be notified. The requester must be notified of these extensions within the initial time frame.

Access rights are not absolute. They are subject to specific and limited exemptions, balancing freedom of information against individual privacy, commercial confidentiality, national security and the frank communications needed for effective policy-making. These exemptions permit government agencies to withhold material, often prompting disputes between applicants and departments.

Dissatisfied applicants may turn to the Information Commissioner who investigates applicants' complaints that:

- they have been denied requested information;
- they have been asked to pay too much for copied information;
- the department's extension of more than 30 days to provide information is unreasonable;
- the material was not in the official language of choice or the time for translation was unreasonable;
- they have a problem with the Info Source guide or periodic bulletins which are issued to help the public use the Act; or,
- they have encountered a problem with another matter relating to requesting or obtaining access to records under the Act.

The Commissioner has strong investigative powers. These are real incentives to government institutions to adhere to the Act and respect applicants' rights.

Since he is an ombudsman, the Commissioner may not order a complaint resolved in a particular way. Thus he relies on persuasion to solve disputes, asking for a Federal Court review only if he believes an individual has been improperly denied access and a resolution as proved impossible.

To underline how rare this is, since 1999, 99.9% of complaints were resolved without the Commissioner initiating a Federal Court review.

The Commissioner does not have the authority under the Act to go to the Federal Court on his own. The complainant can either ask for a review, or, if that person so chooses, can give the Commissioner consent to apply for a review on his or her behalf.

The Commissioner's policy is to offer to go to court in every case where the head of an institution has refused to follow a recommendation that records be disclosed.

Corporate Services

The Corporate Services function provides administrative services (financial, human resources, information technology, and general administrative services) to the Information Commissioner’s office. Its objective is to support those who administer the program.

For more information on Corporate Services, please refer to Section V Performance Discussion or visit our website at www.infocom.gc.ca.

Total Financial Resources for the Program (\$ millions)

Planned	Authorities	Actual
5.17	5.77	5.56

Total Human Resources

Planned	Actual	Difference
56	52	4

**SECTION II – ANALYSIS OF PERFORMANCE BY STRATEGIC
OUTCOME**

Strategic Outcome

Individuals' rights under the *Access to Information Act* are safeguarded.

Program Activity

Receive/assess, investigate/review, pursue judicial enforcement, and provide advice to parliament and government, relating to the right of access to information.

Financial Resources (\$ millions)

Planned Spending	Authorities	Actual
4.19	4.34	4.13

Human Resources

Planned	Actual	Difference
45	39	6

1. Managing the investigation and complaint resolution process efficiently and effectively

A primary objective of the Office of the Information Commissioner is to improve access to government information held by federal institutions. The bulk of the effort of the Office is directed towards providing the operational processes and support needed to handle complaints from Canadians who are being denied access to government information. Whilst the processes, procedures, and protocols needed to discharge this responsibility are in place and published, the results are largely dependent upon the departments and agencies meeting their obligations under the *Access to Information Act*. These processes provide the basic data needed to assess the efficiency of the Office when dealing with the steps and time constraints inherent within the Access to Information legislation. The results are described and discussed in the section entitled “*To continue to strive to improve service standards within resource constraints*” later in this report.

In addition to improving the operational efficiency of the administrative process, an important aspect of the Commissioner's role is to monitor and make visible departments' performance in meeting their obligations under the Act and to encourage departments to take the steps necessary to improve their performance. With the limited resources available, the Commissioner relies largely upon moral suasion through the publication of departmental report cards in the Annual Report and the willingness of individual departments to address below standard performance. The effectiveness of this approach is therefore mixed and will continue to be so, unless sufficient funds are provided to institute more comprehensive interventions such as Access to Information training.

With respect to the annual report cards, the grading standard is based on the Act's provision that "deems" late answers to be "refusals". *Figure 1: Grading Deemed Refusals Under the Access to Information Act* depicts the grades and how the allocation of the grade depends on the percentage of all requests received which are not answered within statutory deadlines and, hence, are deemed refusals.

Figure 1: Grading Deemed Refusals under the Access to Information Act

% of Deemed Refusals	Comment	Grade
0-5 percent	Ideal compliance	A
5-10 percent	Substantial compliance	B
10-15 percent	Borderline compliance	C
15-20 percent	Below standard compliance	D
More than 20 percent	Red alert	F

Since the introduction of the report cards, the Information Commissioner has observed a dramatic reduction in the number of delay complaints: from a high of 49.5 percent in 1998-99 to a low of 14.5 percent of complaints in 2003-04. This year delay complaints account for 21.1 percent of our workload. In previous years, the deemed-refusal ratio to requests received did not take into consideration those requests carried over from the previous year, nor the number of requests already in a deemed-refusal status on April 1. These figures are taken into consideration in this year's report.

This year, the Office of the Information Commissioner reviewed the status of requests in a deemed-refusal situation for twelve departments.¹ The results attained by the twelve government institutions reviewed are set out in *Figure 2: New Requests to Deemed Refusal Ratio April 1 to November 30, 2004*.²

¹ Canada Revenue Agency (CRA); Citizenship and Immigration Canada (CIC); Correctional Service Canada (CSC); Fisheries and Oceans Canada (F&O); Department of Foreign Affairs and International Trade (DFAIT); Health Canada (HCan); Human Resources and Skills Development Canada (HRSDC); Industry Canada (IC); National Defence (ND); Privy Council Office (PCO); Public Works and Government Services Canada (PWGSC); Transport Canada (TC).

² In previous years, the deemed-refusal ratio to requests received did not take into consideration those requests carried over from the previous year, nor the number of requests already in a deemed-refusal status on April 1. These figures are taken into consideration in this year's report.

Figure 2: New Requests to Deemed Refusal Ratio April 1 to November 30, 2004.

Department	% of deemed refusals (previous Formula)	Grade	% of deemed refusals (current Formula)	Grade
CRA	5.9%	B	4.7%	A
CIC	12.1%	C	13.8%	C
CSC	4.0%	A	3.6%	A
F&O	4.9%	A	5.2%	B
DFAIT	20.8%	F	28.8%	F
HCan	11.5%	C	17.2%	D
HR(S)DC	3.2%	A	3.0%	A
IC	10.0%	C	16.2%	D
ND	6.0%	B	9.5%	B
PCO	26.4%	F	26.5%	F
PWGSC	15.7%	D	17.7%	D
TC	6.3%	B	7.2%	B

Figure 3: Grading from 1998 to 2004 (April 1 to November 30) provides a longitudinal view of these departments' performance when meeting the standards for responding to complaints. The table shows the results of the formula adjustment made in 2003-2004. Also, it highlights the difficulty that departments have to maintain ideal compliance when meeting legislated timeframes under the *Access to Information Act*.

As shown in Figure 3, five institutions improved their performance over last year, three showed no change and four received lower grades than last year.

For example, PCO and DFAIT show a large degree of performance fluctuation over the years. Industry Canada's progress in the past year is actually more positive than the figures would indicate. A lot of work was done by the department in addressing the many recommendations that were made last year by the Office of the Information Commissioner. Industry Canada is encouraged to continue pressing forward to attain a better performance next year. DFAIT and PWGSC constitute chronic problem cases, which are at the top of the Commissioner's list of priorities for attention.

Figure 3: Grading from 1998 to 2004 (April 1 to November 30)

Dept.	1998	1999	2000	2001	2002	2003		2004	
						Previous Formula	Current Formula	Previous Formula	Current Formula
CRA	F	F	C	B	A	B	B	B	A
CIC	F	F	D	C	A	D	C	C	C
CSC	-	-	-	-	F	A	B	A	A
F&O	-	-	F	F	A	A	A	A	B
DFAIT	F	F	F	D	B	D	D	F	F
HCan	F	A	-	-	A	B	B	C	D
HR(S)DC	-	A	-	-	D	F	F	A	A
IC	-	-	-	-	-	F	F	C	D
ND	F	F	D	C	B	B	B	B	B
PCO	F	A	-	-	D	A	C	F	F
PWGSC	-	-	-	-	F	C	D	D	D
TC	-	F	F	C	D	D	F	B	B

The results over the past seven years as depicted by the grading scheme have enabled the Information Commissioner to focus his scarce resources upon helping departments who are having difficulty meeting their legislative obligations and to diagnose over time the main causes of delay in processing access requests.

The main causes of delay appear to be:

- Inadequate resources in ATIP offices;
- Chronic tardiness in the retrieval of records due to poor records management and staff shortages in offices of primary interest;
- Difficulties encountered during the consultation process with third parties and other government institutions;

- Top-heavy approval processes, including too much "hand-wringing" over politically sensitive requests and too frequent hold-ups in ministers' offices; and
- Poor communication with requesters to clarify access requests.

The Office of the Information Commissioner will continue to focus its attention on the delay problem in order to remind government institutions of their responsibilities to provide timely responses to requests.

2. Advocating effectively and professionally before the Courts

An important principle of the *Access to Information Act*, set forth in section 2, is that decisions on disclosure of government information should be reviewed independently of government. The Commissioner's office and the Federal Court of Canada are the two levels of independent review provided by the law.

Requesters dissatisfied with responses received from government to their access requests first must complain to the Information Commissioner. If they are dissatisfied with the results of his investigation, they have the right to ask the Federal Court to review the department's response. If the Information Commissioner is dissatisfied with a department's response to his recommendations, he has the right, with the requester's consent, to ask the Federal Court to review the matter. This year, the Information Commissioner filed four new applications for review under section 42 of the *Access to Information Act*.

During 2004, the Commissioner's office investigated 1,140 complaints, of which, 104 cases could not be resolved to the Commissioner's satisfaction and these resulted in four new applications for review being filed by the Commissioner. One hundred and one cases addressed disclosure of the 1911 census and were consolidated into one application for review.

In addition to cases initiated by the Commissioner against government institutions who refuse, without lawful justification, to disclose information, the Commissioner must respond to an increasing number of cases taken against him by government.

Eight applications for court review were filed by dissatisfied requesters under section 41 of the *Access to Information Act*.

Third parties opposing disclosure of requested information filed seventeen applications under section 44 of the *Access to Information Act*.

Individuals or the Crown may ask the Federal Court to judicially review, pursuant to the *Federal Court Act*, alleged excesses of jurisdiction by the Commissioner in the conduct of his investigations.

This year twenty-two applications were initiated against the Information Commissioner by the Crown, certain witnesses and other individuals. By so doing, the government seeks to delay investigations, weaken the Commissioner's power, shield information from independent review,

and so forth. The Courts play an indispensable role in keeping vibrant the rights contained in the *Access to Information Act*.

With respect to access litigation, the Federal Court of Canada issued 17 decisions, the Federal Court of Appeal issued 2 decisions and the Supreme Court of Canada granted leave to appeal in one case.

The Information Commissioner is or was a party to the following cases that were completed during the reporting period:

1. ***The Information Commissioner of Canada v. Transportation Accident Investigation and Safety Board, Nav Canada and the Attorney General of Canada***, 2005 FC 384, Court files T-465-01, T-888-02, T-889-02, T-650-02, Snider J., March 18, 2005
2. ***The Attorney General of Canada et al. v. Information Commissioner of Canada***, Court files T-984-04 to T-990-04, T-992-04 to T-1002-04
3. ***The Attorney General of Canada et al. v. Information Commissioner of Canada***, Court files T-589-04 and T-1076-04
4. ***Sheldon Blank v. The Information Commissioner of Canada***, T-2324-03, Federal Court, Layden-Stevenson, J., May 27, 2004 (see annual report 2003-04, p. 59 for further details)
5. ***Sheldon Blank v. The Information Commissioner of Canada***, Court file T-1623-04 Federal Court, O'Reilly, J., March 1, 2005

The Information Commissioner is also involved in cases in progress and not yet completed where the Information Commissioner is the:

a) Applicant/Appellant;

- ***The Information Commissioner v. The Minister of Industry*** (Court files T-53-04, T-1996-04 and T-421-04) Federal Court (See annual report 2003-04, p. 53 for more details)
- ***The Information Commissioner v. The Minister of Transport***, Court file T-55-05
- ***The Information Commissioner v. The Minister of National Defence***, Court file T-210-05
- ***The Information Commissioner of Canada v. Minister of Environment***, T-555-05, Federal Court

b) Respondent in Federal Court;

- ***The Attorney General of Canada and Mel Cappe v. Information Commissioner of Canada***, Court file A-223-04
- ***Francis Mazhero v. The Information Commissioner of Canada***, T-313-04, Federal Court

c) Intervener;

- ***The Attorney General of Canada v. H.J. Heinz Co. of Canada Ltd. and The Information Commissioner of Canada*** 2004 FCA 171, T-161-03, Federal Court of Appeal, Desjardins J.A., Nadon J.A., Pelletier J.A., reasons for judgment by Nadon J.A., April 30, 2004

Details of these cases are included in the Information Commissioner's 2004-2005 Annual Report, which can be accessed at <http://www.infocom.gc.ca/reports/2004-2005-e.asp>.

3. *To develop a training program for ministerial exempt staff, senior officials, line managers and access professionals on their role, responsibilities and participation in the Access to Information process.*

Achieving a balance between privacy and transparency is crucial in a democracy. Access and privacy legislation has been created to achieve this difficult balance. Understanding how access and privacy principles are applied is therefore both important and challenging.

The Office of the Information Commissioner worked closely with the University of Alberta to produce the first-ever, bilingual, on-line course of its type in Canada. The resulting Information Access and Protection of Privacy Certificate Program (IAPP) explain the complex legislation and practices associated with application of the Acts in the public and private sectors.

The IAPP Program provides students with an appreciation and understanding of access and privacy theories, facts, best practices, and skills for exercising sound judgment. Program participants have the opportunity to share information and network with other stakeholders and experts from across the country.

The IAPP Program has proven to be very popular, and has even garnered international attention. Moreover, during the period under review, the OIC is pleased to say that several employees were among the first graduates from the program.

In addition, during the period under review, senior staff of the Office of the Information Commissioner continued to meet with senior staff of ministers to educate them on their roles and obligations. A CD-ROM based, self-learning tool has been developed to assist ministerial staff in understanding their access to information obligations.

4. *To raise public awareness by:*

- ***Continuing to undertake speaking engagements;***
- ***Contributing articles and other information; and,***
- ***Providing support and expertise to conferences, public meetings and other special events***

During the 2004-2005 fiscal year the Commissioner undertook some sixteen speaking engagements ranging from a speech to the Second International Conference of Information Commissioners on the topic of “Mechanisms of Accountability and the Democratic Deficit” Cape Town, South Africa in April 2004 to evidence before the House of Commons Committee On Access To Information, Privacy And Ethics in April 2005.

Many of these speaking engagements focussed upon, in the Commissioner’s words:

”good records management practices. This is my “hobby horse”. We citizens must insist that records be created, instead of business being done by nods, winks and nudges, that they be stored so they can be readily retrieved and that they be kept for a sufficient length of time to serve archival, audit and access rights.”³

Other speeches addressed the dichotomy between secrecy and the right to access, as noted below:

“The depth of the culture of secrecy is such that our right of access law in Canada is administered by officials as if it were a secrecy law. In the face of a request for records they ask themselves, too often, “may the requested records be kept secret?” The access law makes it clear that officials should also be asking: “Even if they may, why should the records be kept secret?”

“I hasten to add that front line officers and middle managers are starting to get on with the job. Public servants at these levels are, for the most part, service-oriented, comfortable with a client-centered philosophy of public administration and take pride in delivering the access to information program as successfully as they deliver other programs to Canadians.”⁴

5. To continue to strive to improve service standards within resource constraints

The OIC cannot control the number of investigations and complaints that are filed. Therefore, the OIC's goal is to deal with these inquiries and complaints efficiently within the scope of the *Access to Information Act*.

Since the beginning of the current Information Commissioner’s term in 1998 to June 30, 2005, the average time it takes to complete an investigation has risen from 3.9 months to 7.45 months.

This increase is due to the negative effects of inadequate resources to meet the burden of work and the effect of two significant investigations, which took a long time to complete.

Figure 4: It shows the turnaround time in months for the different categories of complaints for the three years. The overall turnaround time for investigations of complaints increased by 1.88 months from 5.57 months in 2003-2004 to 7.45 months in 2004-2005. Overall turn round time also increased by 0.15 of a month from 2002-2003 to 2003-2004.

³ Remarks To The Canadian Study Of Parliament Group Ottawa, Ontario [2005-1-19]

⁴ Remarks To The Third International Conference Of Information Commissioners, Cancun, Mexico [2005-2-21]

Figure 4: Turnaround Time by Category for 2002-2003 to 2004-2005 (inclusive)

Category	2002-2003		2003-2004		2004-2005	
	Months	Cases	Months	Cases	Months	Cases
Refusal to disclose	7.17	590	7.36	447	12.79	609
S. 69 Exclusion		-	8.02	41	14.48	58
Delay (deemed refusal)	3.44	164	4.06	228	4.22	218
Time extension	4.77	125	3.45	153	4.83	157
Fees	4.22	48	5.15	48	5.29	32
Miscellaneous	4.37	79	5.10	53	5.36	66
Overall	5.42	1,006	5.57	970	7.45	1,140

The method of calculating turn round times uses the median as the determining factor when calculating the “average turn round time”. Using the median i.e. the turn round time of the 50th percentile better reflects the “average” as it discounts undue weight given to outliers.

The workload statistics demonstrate that despite an increasingly heavy and more complex workload, investigators have been able to resolve more cases. However the overall turnaround time has increased by more than two months. The increase is largely due to the increased time taken to resolve complaints categorised as “refusal to disclose”, which account for almost half of all resolved complaints.

Figure 5: Status of Complaints as at March 31, 2005 summarises the number and disposition of complaints over the period from 2000-2001 to 2004-2005. The number of cases that remained incomplete at year's end has increased from 571 in 2000 to 1,385 in 2005. Of this latter number 1,135 cases have been under investigation for a period, which indicates that they are backlogged compared with only 728 at the end of the previous fiscal year. Despite maintaining virtually the same closure rate, an increase in new cases has a direct impact on the number of outstanding cases as there is no investigator slack time.

As was stated in previous Departmental Performance Reports, and in numerous Annual Reports, an infusion of resources will be needed to further reduce the backlog. As the statistics demonstrate, increased caseloads and a lack of resources are jeopardizing the Commissioner’s ability to deliver timely investigations (for more information on the resource crisis the Office is facing please refer to Section IV – Other Items of Interest, Inadequate Resources).

Figure 5: Status of Complaints as at March 31, 2005

	2000-2001	2001-2002	2002- 2003	2003-2004	2004-2005
Pending from previous year	571	912	677	657	1,019
Opened during the year	1,678	1,049	986	1,331 ⁵	1,506
Completed during the year	1,337	1,232	1,006	970	1,140
Pending at year-end	912	729	657	1,019	1,385

The modest progress experienced during 2002-2003 in improving turnaround times and reducing the backlog was not possible to sustain in the face of severe resource constraints

Figure 6: Complaint Findings April 1, 2003 to March 31, 2004, shows that of the 1,140 investigations completed in 2004-2005, 19.1 percent were of delay. In 2003-2004, by comparison, 23.5 percent of complaints concerned delay. The decrease (from 228 to 218 complaints) indicates a marginal improvement over the previous year by government institutions to meet response deadlines. Some 104 cases investigated in 2004-2005 remained unresolved, an increase of 96 cases from those unresolved in the previous year. Investigators were able to resolve in total 696 (61.1%) of all cases reviewed in 2004-2005 compared to 683 (70.4%) in 2003-2004. On the assumption that the overall degree of difficulty has tended to increase year over year then the performance of the investigators has clearly improved.



⁵ The number of complaints opened during 2003-2004 and the number pending as at March 31 2004 have been adjusted to reflect final 2003-2004 numbers.

Figure 6: Complaint Findings April 1, 2004 to March 31, 2005

Category	Resolved	Not Resolved	Not Substantiated	Discontinued	TOTAL	%
Refusal to disclose	294	100	144	71	609	53.4
S.69 exclusion	27	1	28	2	58	5.1
Delay (deemed refusal)	199	-	8	11	218	19.1
Time extension	118	-	37	2	157	13.8
Fees	16	-	11	5	32	2.8
Miscellaneous	42	3	16	5	66	5.8
TOTAL	696	104	244	96	1,140	100%
100%	61.1	9.1	21.4	8.4		

6. To provide advice to Parliament on the effects of new legislation on the public's "right to know"

In 2004, the Standing Committee on Access to Information, Privacy and Ethics was formed to oversee, inter alia, the Office of the Information Commissioner. The Commissioner has appeared several times before the Committee to give evidence with respect to his 2004-05 spending estimates, his 2003-04 annual report, and on issues of new funding mechanisms for officers of Parliament and reform of the *Access to Information Act*.

At a recent appearance before the Standing Committee, the Commissioner noted that:

"Every non-insider review of the Access to Information Act over the past 20 years has come to the same conclusion: narrow the scope of exemptions, broaden the coverage to include new records and institutions, make the system speedier, reduce fee barriers, strengthen the powers of oversight and make government more accountable for its obligations under the Act."

The Commissioner emphasised that basic problems such as the trend to an oral culture and the crisis in records management continue to exist and need to be addressed. He is pleased that the new committee has made it a priority to ensure that the *Access to Information Act* is modernized and strengthened. This increased level of parliamentary interest in, and scrutiny of, the operations of the *Access to Information Act* is a very positive sign of parliamentary leadership in nurturing the public's right to know.

Program Activity

Corporate Services

The corporate services function provides administrative services (financial, human resources, information technology and general administrative services) to the Information Commissioner's office. Its objective is to support those who administer the program.

During 2004 –2005 the Corporate Services branch was able to address and improve several important aspects of its services.

The SFO also initiated a review of the progress made towards implementing Modern Comptrollership across the organization, using the management framework as set out by Treasury Board Secretariat in its Managing for Results publication. The results of the review demonstrated that except for a few aspects, Modern Comptrollership is fully implemented in the OIC.

A key activity for Human Resources during 2004-05 was to work toward understanding and implementing the new requirements of the Public Service Modernization Act.

During the period under review the Office of the Information Commissioner was audited by the Office of the Auditor General (OAG) and the Canadian Human Rights Commission (CHRC). The CHRC audit found the OIC to be in compliance with all twelve of the statutory requirements of the Employment Equity Act.

During 2004-2005, the Information Technology Branch upgraded its Records Documentation Information Management System (RDIMS) and increased the office's Internet security through the introduction of anti-span and anti-spy ware. As well, significant work was undertaken to build and deploy electronic document management systems and work continued on improving practices, tools and facilities.

SECTION III – SUPPLEMENTARY INFORMATION

Organizational Information

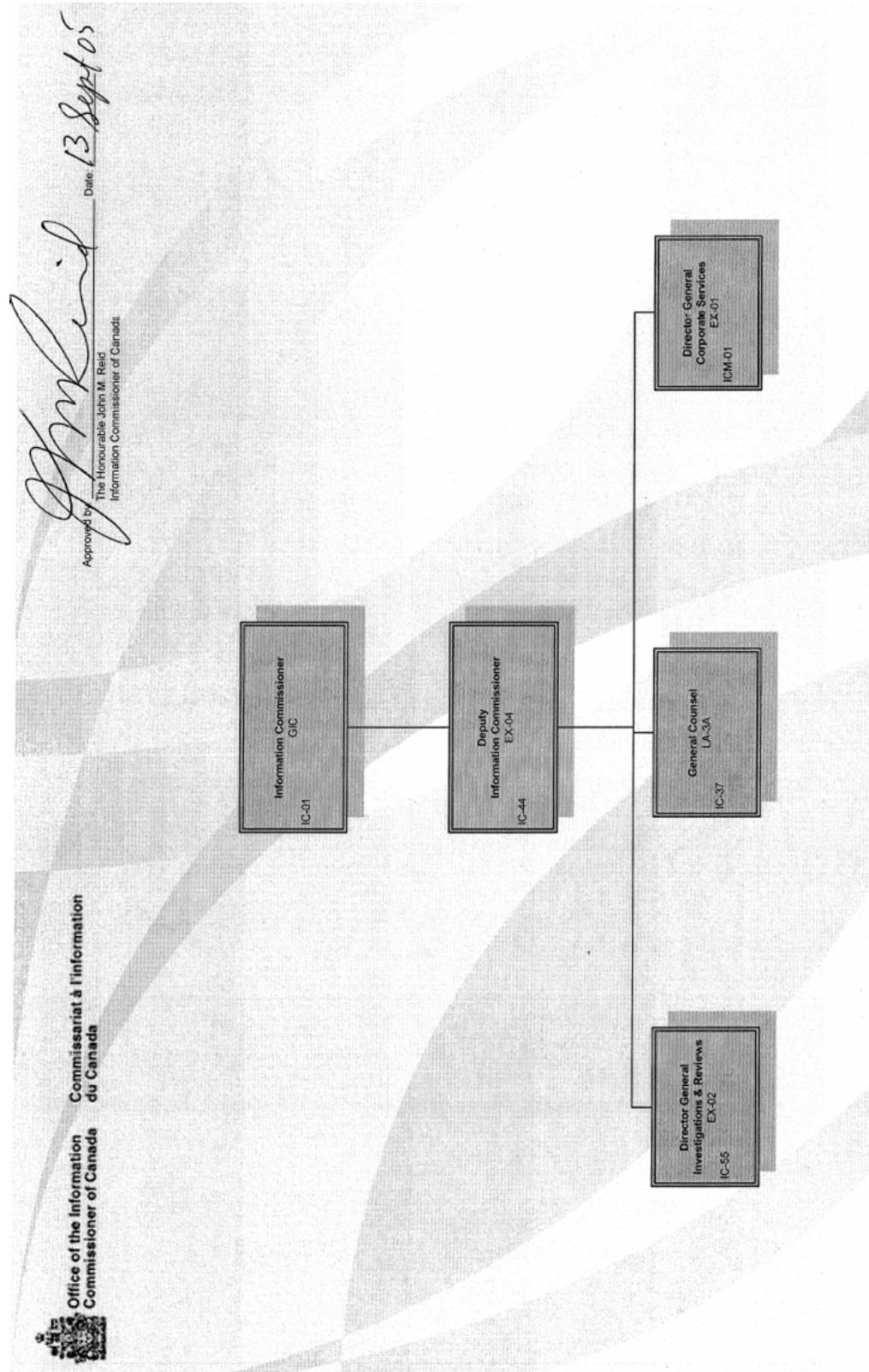


Table 1: Comparison of Planned to Actual Spending (incl. FTE)

This table offers a comparison of the Main Estimates, Planned Spending, Total Authorities, and Actual Spending for the most recently completed fiscal year, as well as historical figures for Actual Spending.

(\$ millions)	2002–03 Actual	2003–04 Actual	2004–2005			
			Main Estimates	Planned Spending	Total Authorities	Actual
Access to Government Information	3.92	4.30	4.19	4.19	4.34	4.13
Corporate Services	1.64	1.17	0.98	0.98	1.43	1.43
Total	5.56	5.47	5.17	5.17	5.77	5.56

Total	5.56	5.47	5.17	5.17	5.77	5.56
Plus: Cost of services received without charge *	0.59	1.03	0.84	0.84	0.88	0.88
Net cost of Department **	6.15	6.50	6.01	6.01	6.65	6.44

Full Time Equivalents	53	55	56	56	58	52
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* See Table 4 for details.

** The differences between the 2004-2005 Planned Spending and the 2004-2005 Total Authorities, \$0.64 million, are primarily attributable to the following:

- through Supplementary Estimates, the OIC received an additional \$0.41 million in support of activities such as: investigations, communications and the hiring of a senior full-time financial officer;
- through Treasury Board Vote 5 and Vote 15 – payroll shortfalls and collective agreement funding of \$0.25 million;
- through an increase in services provided without charge of \$0.04 million by TBS for employers’ share of employees’ insurance premiums; and
- through decrease to the contribution to employee benefit plans of \$0.06 million.

Table 2: Use of Resources by Program Activities

The following table provides information on how resources are used for the most recently completed fiscal year.

2004-2005		
Program Activity – (PA)	Budgetary	
	Operating	Total
Access to Government Information		
Main Estimates	4.19	4.19
<i>Planned Spending</i>	<i>4.19</i>	<i>4.19</i>
Total Authorities	4.34	4.34
<i>Actual Spending</i>	<i>4.13</i>	<i>4.13</i>
Corporate Services		
Main Estimates	0.98	0.98
<i>Planned Spending</i>	<i>0.98</i>	<i>0.98</i>
Total Authorities	1.43	1.43
<i>Actual Spending</i>	<i>1.43</i>	<i>1.43</i>
Total *		
Main Estimates	5.17	5.17
<i>Planned Spending</i>	<i>5.17</i>	<i>5.17</i>
Total Authorities	5.77	5.77
<i>Actual Spending</i>	<i>5.56</i>	<i>5.56</i>

* The differences between the Planned Spending and the Total Authorities, \$0.60 million, are primarily attributable to the following:

- through Supplementary Estimates, the OIC received an additional \$0.41 million in support of activities such as: investigations, communications and the hiring of a senior full-time financial officer;
- through Treasury Board Vote 5 and Vote 15 – payroll shortfalls and collective agreement funding of \$0.25 million; and
- through a decrease to the contribution to employee benefit plans of \$0.06 million.

Table 3: Voted and Statutory Items

This table explains the way Parliament votes resources to the department and basically replicates the summary table listed in the Main Estimates. Resources are presented to Parliament in this format. Parliament approves the voted funding and the statutory information is provided for information purposes.

Vote or Statutory Item	Truncated Vote or Statutory Wording	2004–2005			
		Main Estimates	Planned Spending	Total Authorities	Actual
40	Operating expenditures	4.44	4.44	5.10	4.89
(S)	Contributions to employee benefit plans	0.73	0.73	0.67	0.67
	Total	5.17	5.17	5.77	5.56

* The differences between the Planned Spending and the Total Authorities, \$0.60 million, are primarily attributable to the following:

- through Supplementary Estimates, the OIC received an additional \$0.41 million in support of activities such as: investigations, communications and the hiring of a senior full-time financial officer;
- through Treasury Board Vote 5 and Vote 15 – payroll shortfalls and collective agreement funding of \$0.25 million; and
- through a decrease to the contribution to employee benefit plans of \$0.06 million.

Table 4: Net Cost of Program

This table is designed to show the net cost of the department. It begins with the actual spending and adds services received without charge, to arrive at the net cost of the department.

(\$ millions)	2004–2005
Total Actual Spending	5.56
<i>Plus: Services Charge</i>	
Accommodation provided by Public Works and Government Services Canada (PWGSC)	0.42
Contributions covering employers' share of employees' insurance premiums and expenditures paid by TBS	0.31
Office of the Auditor General of Canada – audit services	0.15
2004–2005 Net cost of Program	6.44

Table 5: Financial Statements

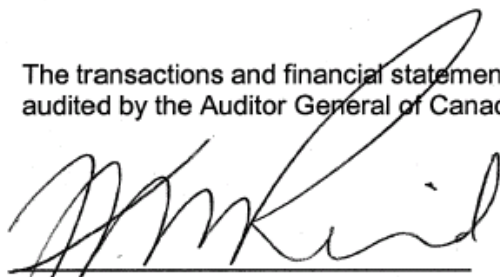
Office of the Information Commissioner of Canada Management Responsibility for Financial Statements

Responsibility for the integrity and objectivity of the accompanying financial statements for the year ended March 31, 2005 and all information contained in this report rests with the management of the Office of the Information Commissioner of Canada.

These financial statements have been prepared by management in accordance with accounting standards issued by the Treasury Board of Canada Secretariat which are consistent with Canadian generally accepted accounting principles for the public sector. These statements should be read within the context of the significant accounting policies set out in Note 2 of the financial statements.

Management has developed and maintains books, records, internal controls and management practices, designed to provide reasonable assurance that the Office's assets are safeguarded and controlled, resources are managed economically and efficiently in the attainment of corporate objectives, and that transactions are in accordance with the *Financial Administration Act* and regulations and the *Access to Information Act*.

The transactions and financial statements of the Office of the Information Commissioner of Canada have been audited by the Auditor General of Canada.



The Honourable John M. Reid
Deputy Head



Ruth Leslie McEwan, C.G.A.
Senior Financial Officer

Ottawa, Canada
July 8, 2005



AUDITOR'S REPORT

To the Speaker of the House of Commons and the Speaker of the Senate

I have audited the statement of financial position of the Office of the Information Commissioner of Canada as at March 31, 2005 and the statements of operations, accumulated deficit and cash flow for the year then ended. These financial statements are the responsibility of the Office's management. My responsibility is to express an opinion on these financial statements based on my audit.

I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In my opinion, these financial statements present fairly, in all material respects, the financial position of the Office as at March 31, 2005 and the results of its operations and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

Further, in my opinion, the transactions of the Office that have come to my notice during my audit of the financial statements have, in all significant respects, been in accordance with the *Financial Administration Act* and regulations and the *Access to Information Act*.

Sheila Fraser, FCA
Auditor General of Canada

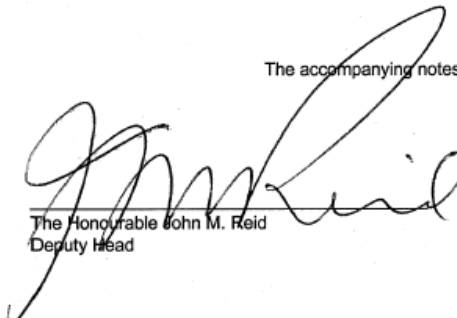
Ottawa, Canada
July 8, 2005


Office of the Information Commissioner of Canada
Statement of Financial Position
as at March 31

	<u>2005</u>	<u>2004</u>
ASSETS		
Financial assets		
Cash	\$ 813	\$ 800
Due from the Consolidated Revenue Fund	491,544	253,473
Prepaid expenses	5,935	8,250
Accounts receivable	124,701	11,111
Total financial assets	<u>622,993</u>	<u>273,634</u>
Capital assets (Note 4)	<u>505,176</u>	<u>752,741</u>
Total assets	\$ 1,128,169	\$ 1,026,375
LIABILITIES AND ACCUMULATED DEFICIT		
Current liabilities		
Accounts payable and accrued liabilities	\$ 208,914	\$ 26,963
Accrued employee salaries	350,351	235,317
Accrued employee vacation and leave benefits	171,127	222,999
Accrued employee severance benefits - current portion (Note 5)	180,424	54,614
Total current liabilities	<u>910,816</u>	<u>539,893</u>
Long-term liabilities		
Accrued employee severance benefits (Note 5)	541,238	642,239
Total liabilities	<u>1,452,054</u>	<u>1,182,132</u>
Accumulated deficit (Note 7)	<u>(323,885)</u>	<u>(155,757)</u>
Total liabilities and accumulated deficit	\$ 1,128,169	\$ 1,026,375

Commitments (Note 10)

The accompanying notes form an integral part of these financial statements


The Honourable John M. Reid
Deputy Head


Ruth Leslie McEwan, C.G.A.
Senior Financial Officer

Office of the Information Commissioner of Canada
Statement of Operations
for the year ended March 31

	<u>2005</u>	<u>2004</u>
Expenses (Note 8)		
Access to government information	\$ 5,033,982	\$ 5,244,661
Corporate services	<u>1,612,907</u>	<u>1,370,248</u>
	6,646,889	6,614,909
Revenues		
Miscellaneous revenues	<u>-</u>	<u>3,625</u>
Net cost of operations	<u>\$ 6,646,889</u>	<u>\$ 6,611,284</u>

The accompanying notes form an integral part of these financial statements

Office of the Information Commissioner of Canada
Statement of Accumulated Deficit
for the year ended March 31

	<u>2005</u>	<u>2004</u>
Equity (Accumulated deficit), beginning of the year	\$ (155,757)	\$ 93,624
Net cost of operations	(6,646,889)	(6,611,284)
Services provided without charge (Note 9)	881,698	1,033,664
Net cash provided by Government	5,358,992	5,297,773
Increase in Due from Consolidated Revenue Fund	<u>238,071</u>	<u>30,466</u>
Accumulated deficit, end of the year	<u>\$ (323,885)</u>	<u>\$ (155,757)</u>

The accompanying notes form an integral part of these financial statements

Office of the Information Commissioner of Canada
Statement of Cash Flow
for the year ended March 31

	<u>2005</u>	<u>2004</u>
Operating Activities		
Net cost of operations	\$ 6,646,889	\$ 6,611,284
Adjustments for items not affecting cash:		
Amortization of capital assets	(311,182)	(222,384)
Loss on disposal of assets	-	(3,643)
Services provided without charge (Note 9)	(881,698)	(1,033,664)
Changes in Statement of Financial Position:		
Increase (decrease) in selected financial assets	111,288	(75,402)
Increase in current liabilities	(370,923)	(4,271)
Decrease in long-term severance benefits	101,001	39,342
Cash applied to operating activities	<u>5,295,375</u>	<u>5,311,262</u>
Capital Transactions		
Capital asset transfer	-	(150,000)
Proceeds from capital asset disposal	-	(6,800)
Acquisition of capital assets	63,617	143,311
Cash used in (provided by) capital transactions	<u>63,617</u>	<u>(13,489)</u>
Net cash provided by government	<u>\$ 5,358,992</u>	<u>\$ 5,297,773</u>

The accompanying notes form an integral part of these financial statements

Office of the Information Commissioner of Canada

Notes to the Financial Statements

For the year ended March 31, 2005

1. Authority and objectives

The Office of the Information Commissioner of Canada, hereafter referred to as the Office, was created under the *Access to Information Act*, which came into force on July 1, 1983. The Commissioner is appointed by the Governor-in-Council following approval of his nomination by resolution of the Senate and the House of Commons. The Office of the Information Commissioner of Canada is designated, by Order-in-Council, as a department for purposes of the *Financial Administration Act*. As such, it is established under the authority of schedule I.1 of that Act and is funded through annual appropriations. The Commissioner is accountable for, and reports directly to Parliament on the results achieved.

The *Access to Information Act* is the legislative authority for the activities of the Information Commissioner and his Office. The objectives of the Office are:

- to deliver timely, thorough and fair investigations of complaints made by individuals denied information by the government;
- to encourage a culture of openness within the federal public service;
- to persuade federal government institutions to adopt information practices in keeping with the *Access to Information Act*;
- to bring appropriate issues of interpretation of the *Access to Information Act* before the Federal Court; and
- to ensure that Parliament is informed of the activities of the Commissioner's Office, the general state of health of the right of access and any matter dealt with in the access law requiring reform.

2. Significant accounting policies

a) Basis of presentation

The financial statements of the Office of the Information Commissioner of Canada have been prepared in accordance with accounting standards issued by the Treasury Board of Canada Secretariat which are consistent with Canadian generally accepted accounting principles for the public sector.

b) Parliamentary appropriations

The Office of the Information Commissioner of Canada is funded through annual parliamentary appropriations. Appropriations provided to the Office do not parallel financial reporting according to Canadian generally accepted accounting principles for the public sector. They are based, in large part, on cash flow requirements. Consequently, items recognised in the statement of operations and the statement of financial position are not necessarily the same as those provided through appropriations from Parliament. Note 3 to these financial statements provide information regarding the source and disposition of these authorities and provide a high-level reconciliation between the two bases of reporting.

Office of the Information Commissioner of Canada

Notes to the Financial Statements

For the year ended March 31, 2005

c) Due from the Consolidated Revenue Fund (CRF)

Cash transactions of the Office of the Information Commissioner of Canada are processed through the Consolidated Revenue Fund of the Government of Canada. All cash receipts of the Office are deposited to the CRF and all cash disbursements made by the Office are paid from the CRF. Due from the Consolidated Revenue Fund represents the amount of cash that the Office is entitled to draw from the Consolidated Revenue Fund, without further appropriations, in order to discharge its liabilities. Net cash provided by the government is the difference between all cash receipts and all cash disbursements including transactions involving departments and agencies.

d) Receivables

Receivables are stated at amounts expected to be ultimately realised. A provision is made for receivables where recovery is considered uncertain.

e) Capital assets

Assets and leasehold improvements providing multi-year benefits to the Office, with an acquisition value of \$2,500 or more, are recorded as capital assets at their historical cost. Similar items with a cost less than \$2,500 are included in the statement of operations. The capitalisation of software and leasehold improvements has been done on a prospective basis from April 1, 2001. Amortization of capital assets is done on a straight-line basis over the estimated useful life of the capital asset as follows:

Assets	Useful life
Telecommunications equipment	10 years
Informatics hardware	3 years
Computer software	3 years
Furniture and fixtures	10 years
Motor vehicles	10 years
Leasehold Improvements	Term of the lease

f) Employee salaries, vacation and benefits

Salaries and benefits are expensed as the salary or benefits accrue to employees under their respective terms of employment. The employee salaries liability is calculated using the employees' salary levels at year-end, and the number of days remaining unpaid at the end of the year. The liability for vacation leave is calculated at the salary levels in effect at the end of the year for all unused vacation leave benefits accruing to employees. Employee vacation leave liabilities payable on cessation of employment represent obligations of the Office of the Information Commissioner of Canada that are normally funded through future years' appropriations.

Office of the Information Commissioner of Canada
Notes to the Financial Statements
For the year ended March 31, 2005

g) Employee severance benefits

Employees of the Office of the Information Commissioner of Canada are entitled to severance benefits, as provided for under labour contracts and conditions of employment. The cost of these benefits is accrued as employees render the services necessary to earn them. The cost of the benefits earned by employees is calculated using information derived from the results of the actuarially determined liability for employee severance benefits for the Government as a whole.

h) Services provided without charge by other government departments

Services provided without charge by other government departments are reported as operating expenses by the Office of the Information Commissioner of Canada at their estimated cost. A corresponding amount is reported directly in the Statement of Accumulated Deficit.

i) Contributions to pension plan

All eligible employees participate in the Public Service Pension Plan administered by the Government of Canada. The Office of the Information Commissioner of Canada's contributions reflect the full cost as employer. This amount is currently based on a multiple of an employee's required contribution and may change over time depending on the experience of the Plan. The Office's contributions are expensed during the year in which the services are rendered and represent the total pension obligation of the Office. The Office is not currently required to make contributions with respect to any actuarial deficiencies of the Public Service Pension Plan.

j) Employee benefit plan

The Government of Canada sponsors an employee benefit plan (Health and Dental) in which the Office of the Information Commissioner participates. As a participant, contributions by the Office are recorded at cost and are charged to expenses in the period incurred, and represent the total obligation of the Office to the plan. Under current legislation, the Office is not required to make contributions with respect to any future unfunded liabilities of the plan.

k) Measurement uncertainty

Preparing financial statements in accordance with Canadian generally accepted accounting principles for the public sector requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. At the time of preparation of these statements, management believes the estimates and assumptions to be reasonable. Actual results could differ from those estimates. The most significant items where estimates are used are in determining the expected useful life of capital assets and in determining employee severance benefits.

Office of the Information Commissioner of Canada
Notes to the Financial Statements
For the year ended March 31, 2005

3. Parliamentary appropriations

a) Reconciliation of net cost of operations to parliamentary appropriations used:

	2005	2004
Net cost of operations	\$6,646,889	\$ 6,611,284
Items not requiring the use of appropriations		
Amortization of capital assets	(311,182)	(222,384)
Loss on disposal of assets	-	(3,643)
Services provided without charge by other government departments	(881,698)	(1,033,664)
Change in employee vacation and leave benefits	51,872	49,111
Change in employee severance benefits	(24,809)	22,842
Other	13,685	4,880
Sub-Total	5,494,757	5,428,426
Items affecting appropriations		
Acquisition of capital assets	63,617	143,311
Change in prepaid expenses	(2,315)	2,752
Miscellaneous revenues	-	3,625
Other	-	39,392
Transfer of capital assets	-	(150,000)
Total appropriations used	\$5,556,059	\$5,467,506

b) Reconciliation of parliamentary appropriations voted to parliamentary appropriations used:

	2005	2004
Parliamentary appropriations voted:		
Operating expenditures	\$5,097,616	\$5,037,670
Statutory contributions to employee benefit plans	669,118	660,973
Proceeds from capital asset disposal	6,800	13,625
	<u>5,773,534</u>	<u>5,712,268</u>
Less: Lapsed appropriations	(217,475)	(87,962)
Transfer of capital assets	-	(150,000)
Surplus proceeds available for subsequent years	-	(6,800)
Total parliamentary appropriation used	\$5,556,059	\$5,467,506

Office of the Information Commissioner of Canada
Notes to the Financial Statements
For the year ended March 31, 2005

4. Capital assets

COST	March 31, 2004	Acquisitions	Disposals	March 31, 2005
Telecommunications equipment	\$ 259,080	\$ -	\$ -	\$ 259,080
Informatics hardware	100,113	38,640	-	138,753
Computer software	545,656	-	-	545,656
Furniture and fixtures	209,960	24,977	-	234,937
Motor vehicles	23,926	-	-	23,926
Leasehold improvements	285,949	-	-	285,949
	\$1,424,684	\$ 63,617	\$ -	\$1,488,301

ACCUMULATED AMORTIZATION	March 31, 2004	Amortization	Disposals	March 31, 2005
Telecommunications equipment	\$ 87,107	\$ 25,909	\$ -	\$ 113,016
Informatics hardware	67,933	29,344	-	97,277
Computer software	212,670	180,550	-	393,220
Furniture and fixtures	80,881	20,996	-	101,877
Motor vehicles	2,393	2,393	-	4,786
Leasehold improvements	220,959	51,990	-	272,949
	\$671,943	\$311,182	\$ -	\$983,125
Net Book Value	\$752,741			\$505,176

5. Accrued employee severance benefits

The Office of the Information Commissioner of Canada provides severance benefits to its employees based on years of service and final salary. The benefit plan is not pre-funded and thus has no assets, resulting in a plan deficit equal to the accrued benefit obligation. Benefits will be paid from future appropriations. Information about the plan, measured as at the balance sheet date, is as follows:

	2005	2004
Obligation, beginning of the year	\$696,853	\$719,695
Expense for the year	75,005	15,272
Benefits paid during the year	(50,196)	(38,114)
Obligation, end of the year	\$721,662	\$696,853
Current portion	\$ 180,424	\$ 54,614
Long-term portion	541,238	642,239
Obligation, end of the year	\$721,662	\$696,853

Office of the Information Commissioner of Canada

Notes to the Financial Statements

For the year ended March 31, 2005

6. Pension benefits

The Office of the Information Commissioner of Canada and all eligible employees contribute to the Public Service Pension Plan. This pension plan provides benefits based on years of service and average earnings at retirement. The benefits are fully indexed to the increase in the Consumer Price Index. The Office's and employees' contributions to the Public Service Pension Plan for the year were as follows:

	2005	2004
Office's contributions	\$490,463	\$493,870
Employees' contributions	188,398	180,528

7. Accumulated deficit

The accumulated deficit represents liabilities incurred by the Office, net of capital assets, that have not yet been funded through appropriations. Significant components of this amount are employee severance benefits and vacation pay liabilities. These amounts are expected to be funded by appropriations in future years as they are paid.

8. Summary of expenses by major classification

	2005	2004
Salaries and employee benefits	\$4,864,163	\$4,708,460
Professional and special services	640,446	649,207
Accommodation	417,174	596,000
Amortization	311,182	222,384
Transportation and communications	149,090	159,963
Repairs and maintenance	59,924	49,342
Machinery and equipment	57,584	66,624
Information technology	53,682	56,211
Utilities, materials and supplies	51,883	65,733
Rentals	24,952	31,156
Other	16,809	6,186
Loss on sale of assets	-	3,643
Total	\$6,646,889	\$6,614,909

Office of the Information Commissioner of Canada
Notes to the Financial Statements
For the year ended March 31, 2005

9. Services provided without charge

During the year, the Office received various services provided without charge by other government departments estimated at \$881,698. These services included:

Description	2005	2004
Public Works and Government Services Canada – accommodation	\$417,174	\$ 596,000
Treasury Board Secretariat – employer’s share of insurance premiums	312,607	253,000
Office of the Auditor General of Canada – audit services	150,000	150,000
Public Works and Government Services Canada – payroll services	1,917	2,000
Treasury Board Secretariat – absorption of employee benefit plan costs	-	32,664
Total services provided without charge	\$881,698	\$1,033,664

10. Commitments

The Office of the Information Commissioner of Canada has commitments arising in the normal course of operations. Minimum annual payments under these agreements are as follows:

Fiscal Year	Total
2005-2006	\$17,852
2006-2007	14,688
2007-2008	14,688
2008-2009	14,688
2009-2010	9,098
	\$71,014

11. Related party transactions

The Office of the Information Commissioner of Canada is related, in terms of common ownership, to all Government of Canada departments, agencies and Crown corporations. The Office enters into transactions with these entities in the normal course of business. During the year, the Office expensed \$1,793,119 in the normal course of business with other government departments, agencies and Crown corporations. These expenses include services provided without charge of \$881,698 as described in Note 9.

12. Comparative figures

Certain comparative figures have been reclassified to conform to the presentation adopted in 2005.

Table 6: Response to Parliamentary Committees, Audits and Evaluations for FY 2004–2005

Response to Parliamentary Committees
Not applicable for the year under review.
Response to the Auditor General
The OIC has not been subject to an OAG Chapter (Performance Audit).
External Audits
The OIC has not been subject to an external audit conducted by the Public Service Commission or the Office of the Commissioner of the Official Languages or the Official Languages Board of the Public Service Human Resources Management Agency.
Internal Audits or Evaluations
Results Based Management Accountability Framework for the Office of the Information Commissioner of Canada, Final Report, June 2005

Table 7: Procurement and Contracting

Department/Agency:	
Points to address:	Organization's input:
<p>1. Role played by procurement and contracting in delivering programs</p>	<p>Procurement and contracting play an important role in the delivery of this department's program. In particular, procurement allows the department to obtain goods and services in support of its policy and program delivery. Contracting allows the department to achieve not only operational requirements, but to spur economic growth within the Canadian economy.</p>
<p>2. Overview of how the department manages its contracting function.</p>	<p>The department operates in a centralized environment. Contracting authority is limited to a few individuals within the department. This reflects the department's aim to maintain strict control over the contracting process, while at the same time facilitating managers' deliver of quality services and programs.</p> <p>The Director General, Corporate Services is involved in every contract within the OIC.</p> <p>Major and/or upcoming contract needs are discussed at Senior Management Committee meetings, which are held weekly at the OIC.</p> <p>The department rarely, if ever, awards contracts in excess of \$25,000.</p> <p>The department complies with disclosure requirements in that it posts all contracts over \$10,000 on its web site.</p>

Department/Agency:	
Points to address:	Organization's input:
<p>3. Progress and new initiatives enabling effective and efficient procurement practices.</p>	<p>One of the major initiatives launched by the government recently, is the procurement initiative. It is aimed at strengthening financial management and operational integrity.</p> <p>The idea is to streamline, consolidate and make more efficient, the government's procurement process by consolidating purchasing government-wide, so that it can:</p> <ul style="list-style-type: none"> • leverage its buying power to get the best possible prices; • use a single buyer to negotiate the best possible price; • reduce administrative, compliance and reporting costs through more effective use of technology. <p>On the surface, and in theory, the procurement initiative should work. After all, what we are really talking about is economies of scale which occur when the average unit cost of a good goes down as production increases. One way of achieving economies of scale is by spreading fixed costs over a larger volume of production.</p> <p>There are innumerable examples of possible economies of scale; however, the OIC is of the opinion that centralization is not necessarily the best way to achieve them. The complicated structure of diverse departments and agencies may actually increase the need for administrative staff. Moreover, staff and managers of centralized agencies often find that their general skills are not easily applied to the specialized problems of individual departments.</p> <p>It would appear that in the case of small departments/agencies such as the OIC, that government is assuming our procurement process is inefficient and this, in our estimation, is the first problem with imposing this one-size-fits-all initiative on everyone. Our contention is that our procurement process is already very efficient and, in fact, by introducing additional steps in our process, it will become less efficient; therefore, most costly.</p> <p>Interestingly enough, in the documentation prepared by Public Works and Government Services Canada, to demonstrate to departments, the concept involved in centralized purchasing, the following example was used:</p>

Department/Agency:	
Points to address:	Organization's input:
<p>3. Progress and new initiatives enabling effective and efficient procurement practices (cont'd.)</p>	<p>Example: Savings on a Computer</p> <p>Randy's manager approves his order for a \$2,000 computer from a shop across the street because the system fits his needs perfectly—even though Public Works had negotiated a standing-offer price of \$1,500 for a comparable, but not exactly the same, computer from another supplier.</p> <p>Had Public Works been able to consolidate purchases like Randy's—and order large quantities of computers under the standing offer—it may have been able to get an even better price of about \$1,200 per system. In other words, getting Randy to buy the computer under the new policy would save the Government—and taxpayers—\$800 on each purchase.</p> <p>To demonstrate how this “one-size-fits-all” policy does not hold true for all government departments, let's continue with the same logic used in the above example:</p> <p>Due to unique security requirements at the OIC, the department has two networks; therefore, most employees have two PC's.</p> <p>The PC used to perform daily work must have rapid processing power, etc. However, the second PC, which is used for e-mails, internet, etc., does not have to be as advanced. Furthermore, due to our resourcing crisis, and the great difficulty we seem to have in securing additional funding, we decided to purchase second-hand computers for \$300.00 with a 30-day warranty. Had we used the standing offer agreement, we would have spent:</p> <p>\$1,500 x 10 = \$15,000 OR \$1,200 x 10 = \$12,000</p> <p>but instead, we spent:</p> <p>\$300 x 10 = \$3,000</p> <p>A savings to the Canadian taxpayer – and government – of \$9,000 - \$12,000.</p> <p>The OIC has expressed its concerns in a letter to Mr. I. David Marshall, Deputy Minister / Deputy Receiver General for Canada as well as in a submission to the Treasury Board.</p>

SECTION IV – OTHER ITEMS OF INTEREST

Prime Minister Announces Special Advisor to Review Information and Privacy Mandates

On July 25, 2005, Prime Minister Paul Martin announced that the Honourable Gérard Vincent La Forest, former Justice of the Supreme Court of Canada would conduct an arm's length review of the merits of combining the responsibilities of the Information Commissioner and the Privacy Commissioner into a single office. Mr. La Forest will be appointed as Special Advisor to the Minister of Justice and will report to the Minister in November 2005.

The mandate of the review will be to assess the successes and challenges of the current model, review models used in other jurisdictions, and develop options for the Government's consideration.

Government Announces Extension of Information Commissioner's Appointment

On June 30, 2005, Prime Minister Paul Martin announced a three-month extension to the term of the Information Commissioner, bringing the end date of his term to September 30, 2005.

Again, on July 25, 2005, the Prime Minister announced the extension of the Information Commissioner's appointment for a further six months from October 1, 2005 to March 31, 2006, to provide adequate time for Mr. La Forest's review as well as the implementation of recommendations.

Creation of a new Parliamentary Committee

In his first Annual Report to Parliament (1998-1999) this Commissioner suggested that the responsibility for overseeing his office should be moved from the busy Standing Committee on Justice and the Solicitor General to a committee more able to concern itself with access to information matters. After the election of a minority Liberal government in 2004, a new committee was formed and named: the Standing Committee on Access to Information, Privacy and Ethics. Already, since that committee's creation, the Information Commissioner has appeared three times to give evidence with respect to his 2004-05 spending estimates, his 2003-04 Annual Report, and on this issue of new funding mechanisms for officers of Parliament. This increased level of parliamentary interest in, and scrutiny of, of the operations of the *Access to Information Act*, is a very positive development.

Inadequate Resources

Year after year, Information Commissioners have asked Treasury Board ministers to provide adequate (not extravagant) funds to enable them to effectively discharge the duties Parliament gave them. The requests are routinely denied or pared down to bare bones.

Year after year, the workload of complaints increases and, without adequate resources, the backlog of incomplete investigations also increases. Now it ranks at an all time high; it represents a full year of work for every one of the Commissioner's investigators.

Again, in 2004-2005, the Commissioner put forward a request for seven additional investigators for 3 years, to clear the backlog and eight additional investigators for the long-term to ensure that the backlog did not redevelop. Treasury Board ministers agreed to give the Commissioner five additional investigators for fifteen months and none for the long-term. Resources for such a short-term would, for all practical purposes be wasted. In one year the Commissioner could not recruit for only one year, train, security clear and deploy five new investigators to accomplish any appreciable reduction of the backlog. Moreover, with no permanent increase to the number of investigators, the incoming workload will still outstrip the resources available, contributing to more backlogged investigations. The Commissioner told the President of Treasury Board that the Board's response to the Commissioner's request was a recipe for failure and a waste of taxpayer funds. The Minister's response: try again next year.

And that, of course, is the deep flaw in the manner in which the Commissioner's office is funded – due to its control of the purse strings, the government has control over the effectiveness of Parliament's officer. So much for independence!

It is vital that Parliament take over the role of ensuring the Commissioner get adequate resources to do the job and, of course, holds him or her accountable for how resources are utilized. Parliament took such a step with one of its officers, the Ethics Commissioner. It is equally important that it do so for the Information Commissioner and the other officers of Parliament who are mandated to investigate government actions and decisions.

In February of 2005, the Standing Committee on Access to Information, Privacy and Ethics launched a study into this issue. The government, too, is considering proposals for a new funding mechanism for Officers of Parliament.

Crown Corporations Subject to the Act

The *Access to Information Act* is built on the principle that Canadians have a right of access to government information. Access to information provides Canadians with a mechanism to scrutinize the activities of government. Currently 28 out of 46 Crown corporations are subject to the *Access to Information Act*.

In line with the Task Force report entitled, *Access to Information: Making it Work for Canadians* released in June 2002, the government recommends that the Act not apply to information relating to critical interests of organizations such as journalistic sources and competitive commercial activities, where the current exemptions would not adequately protect this information. Two examples are the competitive commercial activities of the Canada Post Corporation relating to its courier business and program development at the Canadian Broadcasting Corporation.

The government extended the Act to 10 of the 18 Crown corporations currently not covered by Order in Council. The other Crown corporations are of a commercial nature and will remain outside the legislation until legal instruments can be designed to protect their commercially

sensitive information holdings. The government will develop these instruments in the context of overall review of the Act.⁶

Corporate Services

Corporate Services provides administrative services (financial, human resources, information technology, and general administrative) to the Information Commissioner's office. Its objective is to support those who administer the program.

Since fiscal year 2002-2003, the Office of the Information Commissioner of Canada has had to provide its corporate services independently, after the former Privacy Commissioner's unilateral decision to terminate the shared service model based on service usage.

To compensate for the increased workload and reduced economies of scale, Corporate Services had no choice but to close its library and reallocate the resulting funds to greater priority areas. During the period of review covered by this report, the librarian was deployed to the Office of the Auditor General.

For other items of interest, please refer to the Information Commissioner's 2004-2005 Annual Report, at: www.infocom.gc.ca.

⁶ Review of the Governance Framework for Canada's Crown Corporations – Meeting the Expectations of Canadians, Treasury Board of Canada, Secretariat

1. Legislation Administered by the Information Commissioner

The Information Commissioner has an oversight responsibility to Parliament for the *Access to Information Act* R.S.C., 1985, ch. A-1, amended 1997, c. 23, s. 21

2. Statutory Annual Reports and Other Publications

The Commissioner's annual report and position paper on access to information are available on the Commissioner's Internet website.

- *Information Commissioner's 2004-2005 Annual Report*. Ottawa: Minister of Public Works and Government Services Canada. Available from the Office of the Information Commissioner of Canada, Ottawa, Canada K1A 1H3; (613) 995-2410.
- *Performance Report to Parliament, for the period ending March 31, 2004*. Ottawa: Minister of Public Works and Government Services Canada. Available through local booksellers or by mail from Public Works and Government Services - Publishing, Ottawa, Canada K1A 0S9.
- *2004-05 Estimates: A Report on Plans and Priorities*. Ottawa: Minister of Public Works and Government Services Canada. Available through local booksellers or by mail from Public Works and Government Services - Publishing, Ottawa, Canada K1A 0S9.
- Office of the Information Commissioner of Canada Internet home page:
<http://www.infocom.gc.ca>

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