

Annual Report on the *Access to Information Act* and the *Privacy Act*

2010–11



Office of the Auditor General of Canada
Bureau du vérificateur général du Canada



Auditor General of Canada
Vérificatrice générale du Canada

3 January 2012

The Honourable Andrew Scheer, M.P.
Speaker of the House of Commons
House of Commons
Centre Block, Room 328-N
Ottawa, Ontario K1A 0A6

**Office of the Auditor General of Canada
2010–11 Annual Report on the *Access to Information Act*
and the *Privacy Act***

Dear Mr. Speaker,

In accordance with section 72 of both the *Access to Information Act* and the *Privacy Act* and for reference to the Standing Committee on Justice and Human Rights, please find attached the Office of the Auditor General of Canada's 2010–11 Annual Report on the *Access to Information Act* and the *Privacy Act*.

Yours sincerely,

Mike Ferguson, FCA
Auditor General of Canada

Enclosure

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Introduction

When the *Federal Accountability Act* was enacted in 2006, amendments were made to the *Access to Information Act* and the *Privacy Act*, both of which came into force in 1983. The scope of application of these laws was expanded, and the Office of the Auditor General of Canada (OAG) became subject to the *Access to Information Act*.

The *Access to Information Act* gives Canadian citizens and permanent residents, and any person and corporation present in Canada, the right to access information contained in government records, subject to certain specific and limited exceptions.

The *Privacy Act* gives individuals the right to access information about themselves that is held by the government, subject to certain specific and limited exceptions. The *Privacy Act* also protects the privacy of individuals by giving them substantial control over the collection, use, and disclosure of their personal information and by preventing others from having access to that information.

Section 72 of both acts requires that the head of every government institution prepare an annual report on the administration of the acts within the institution and that they submit the reports to Parliament.

This annual report on the administration of the *Access to Information Act* and the *Privacy Act* at the OAG describes how we administered our responsibilities under both acts during the 2010–11 fiscal year.

If you require more information or wish to make a request under the *Access to Information Act* or the *Privacy Act*, please direct your inquiries to the following:

Coordinator
Access to Information and Privacy
Office of the Auditor General of Canada
240 Sparks Street
Ottawa, Ontario K1A 0G6

Tel.: 613-952-0213 (ext. 6455)
Fax: 613-941-8284
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Who we are

The Office of the Auditor General of Canada (OAG) audits federal government operations and provides Parliament with independent information, advice, and assurance regarding the federal government's stewardship of public funds. While the OAG may comment on policy implementation in an audit, it does not comment on policy itself.

We are in the business of legislative auditing. We conduct

- performance audits of federal departments and agencies;
- annual financial audits of the government's financial statements;
- special examinations and annual financial audits of Crown corporations; and
- audits of the governments of Nunavut, Yukon, and the Northwest Territories.

Since 1995, the OAG has also had a specific environmental and sustainable development mandate, which was established through amendments to the *Auditor General Act*.

The Auditor General of Canada is the designated head of the OAG for the *Access to Information Act* as well as the *Privacy Act*. Pursuant to section 73 of both acts, the Auditor General has delegated full authority to the Access to Information and Privacy Coordinator.

Access to Information and Privacy Office

The Access to Information and Privacy (ATIP) Coordinator is accountable for the development and implementation of effective policies, guidelines, systems, and procedures to ensure that the OAG meets its responsibilities under the *Access to Information Act* and the *Privacy Act*.

The main activities of the ATIP Coordinator include

- monitoring compliance with the acts, regulations, and relevant procedures and policies;
- processing requests under both acts;
- developing and maintaining policies, procedures, and guidelines to ensure that the OAG respects the acts;
- promoting awareness of the acts within the OAG to ensure that employees are aware of their responsibilities;
- preparing annual reports to Parliament and other statutory reports, as well as other material that may be required by central agencies;
- representing the OAG in dealings with the Treasury Board of Canada Secretariat, the information and privacy commissioners, and other government departments and agencies to determine how the acts apply to the OAG;
- helping the OAG meet its commitments to ensure openness and transparency, through proactive and informal disclosure of information.

Highlights and accomplishments for the 2010–11 fiscal year

Consultations

In June 2010, for consultation requests, the OAG Executive Committee reaffirmed its support of openness and accountability in government, by deciding not to oppose the release of audit information under entity control. As a result, the OAG will recommend to entities that, for audits that have been tabled or for special examinations that have been presented to the entity's Board of Directors, only those audit documents for which the OAG clearly exercises its control ("reds") be protected. The Office will not ask entities to withhold any other audit-related information, which may be under their control.

Office of the Information Commissioner Report

In March 2011, the Office of the Information Commissioner (OIC) tabled a special report to Parliament entitled Open Outlook, Open Access. In the second year of its three-year plan for report cards, the OIC selected for review certain Crown corporations and agents of Parliament that were recently brought under the *Access to Information Act* as a result of the *Federal Accountability Act*. The OAG was one of the agents of Parliament that was selected for review, and it received an A (Outstanding).

Raising awareness

During this reporting period, nine awareness building sessions were held with approximately 219 employees (approximately 33 percent of the total OAG staff). Access to Information and Privacy Awareness is also part of the mandatory employee orientation course for all new OAG staff.

Complaints

The OAG closed seven of its eight ongoing complaints. These complaints related to the application of section 16.1(1)(a) of the *Access to Information Act*, which prohibits the OAG from releasing information created or obtained during the course of an audit. All complaints were found to be "not substantiated" by the Office of the Information Commissioner.

Administration of the *Access to Information Act*

Requests under the *Access to Information Act*

Received during the reporting period:	13
Outstanding from the previous period:	<u>2</u>
Total:	15

Sources of requests received

The majority of requests were from the media (6), followed by the business sector (4) and the general public (2). The remaining request came from academia (1).

Disposition of completed requests

The Office of the Auditor General (OAG) finalized 14 requests in the 2010–11 fiscal year:

- Six requests resulted in partial disclosure.
- Four requests resulted in complete disclosure.
- Three requests could not be processed because no relevant records existed.
- One request resulted in all related documentation being exempted.

Exemptions invoked

Appendix A indicates the number of requests where specific types of exemptions were invoked. If in processing a request, the OAG applied five different exemptions, one exemption under each relevant section is reported—for a total of five. If the same exemption was claimed several times for the same request, it is reported only once.

As noted, the OAG invoked exemptions under section 19(1), 20(1)(c), 20(1)(d), 21(1)(a), and 21(1)(b) of the *Access to Information Act*. The OAG also invoked exemptions under section 16.1(1) of the Act (Appendix C).

Exclusions cited

The OAG invoked section 68(a) on one occasion.

Extension of time limits

Section 9 of the Act provides for the extension of the statutory time limits, if consultations are necessary or if a large number of records have been requested and processing the request within the original time limit would unreasonably interfere with OAG operations. During the reporting period, four requests were extended for 30 days or less, and another request was extended for more than 30 days.

Completion time

Of the fourteen requests completed during the reporting period,

- nine were completed within the original 30-day deadline,
- four required up to an additional 30 days, and
- one was completed in the 60- to 120-day period.

Method of access

Copies of documents were provided for all ten requests for which the relevant documents were given in whole or in part. When the requestor asked for the response to be provided on a CD, the OAG complied.

Fees

The fees collected during the reporting period totalled \$75.00.

In accordance with government policy, it is OAG practice to waive photocopy or search fees when the total per request is less than \$25.00. In all, for the 2010–11 fiscal year, \$201.00 in fees were waived.

Costs

For the 2010–11 fiscal year, the costs directly associated with administration of the *Access to Information Act* are estimated to be \$100,058.46 for salaries and \$112.50 for operations and maintenance and other administrative expenses—for a total of \$100,170.96.

The employee resources associated with administering the *Access to Information Act* for the 2010–11 fiscal year are estimated at 0.90 full-time equivalents (FTEs).

Complaints and investigations

All of the seven complaints closed during the 2010–11 fiscal year were found to be “not substantiated” by the Office of the Information Commissioner.

The OAG received one new complaint during the 2010–11 fiscal year; it has been carried over to the 2011–12 fiscal year.

Administration of the *Privacy Act*

Requests under the *Privacy Act*

Received during the reporting period:	10
Outstanding from the previous period:	<u>0</u>
Total:	10

Disposition of completed requests

The OAG finalized eight requests in the 2010–11 fiscal year:

- Four requests were abandoned by the applicant.
- Two requests resulted in partial disclosure.
- Two requests could not to be processed, because no relevant records existed.

Exemptions invoked

Appendix B indicates the number of requests in which specific types of exemptions were invoked. If in processing a request, the OAG applied five different exemptions, one exemption under each relevant section is reported—for a total of five. If the same exemption was claimed several times for the same request, it is reported only once.

As noted, the OAG invoked exemptions under sections 25 and 26 of the *Privacy Act*.

Exclusions cited

No exclusions were cited.

Completion time

Of the eight requests completed during the reporting period, six were completed within the original 30-day deadline. Two requests required an additional 30 days to complete.

Extension of time limits

During the 2010–11 fiscal year, two requests were extended for a maximum of 30 days. In one case there were a large number of records and the other required consultations with another government department.

Method of access

Copies of the records were provided.

Costs

For the 2010–11 fiscal year, the costs directly associated with administration of the *Privacy Act* are estimated to be \$25,597.00 for salaries and \$809.00 for operations and maintenance and other administrative expenses—for a total of \$26,406.00. The employee resources associated with administering the *Privacy Act* for the 2010–11 fiscal year are estimated to be 0.25 FTE.

Complaints and investigations

The OAG did not receive any complaints pursuant to the *Privacy Act* during this reporting period, and no investigations were undertaken regarding the OAG.

Disclosure of personal information under section 8(2)

During the reporting period, the OAG

- disclosed personal information pursuant to section 8(2)(m)(i) of the *Privacy Act*; and
- did not disclose personal information pursuant to sections 8(2)(e), 8(2)(f), and 8(2)(g).

Appendix A: Report on the Access to Information Act



Government of Canada
Gouvernement du Canada

REPORT ON THE ACCESS TO INFORMATION ACT RAPPORT CONCERNANT LA LOI SUR L'ACCÈS À L'INFORMATION

Institution Office of the Auditor General of Canada / Bureau du vérificateur général du Canada				Reporting period / Période visée par le rapport 2010-04-01 to/à 2011-03-31	
Source	Media / Médias 6	Academia / Secteur universitaire 1	Business / Secteur commercial 4	Organization / Organisme	Public 2

I Requests under the Access to Information Act / Demandes en vertu de la Loi sur l'accès à l'information	
Received during reporting period / Reçues pendant la période visée par le rapport	13
Outstanding from previous period / En suspens depuis la période antérieure	2
TOTAL	15
Completed during reporting period / Traitées pendant la période visées par le rapport	14
Carried forward / Reportées	1

II Disposition of requests completed / Disposition à l'égard des demandes traitées			
1. All disclosed / Communication totale	4	6. Unable to process / Traitement impossible	3
2. Disclosed in part / Communication partielle	6	7. Abandoned by applicant / Abandon de la demande	
3. Nothing disclosed (excluded) / Aucune communication (exclusion)		8. Treated informally / Traitement non officiel	
4. Nothing disclosed (exempt) / Aucune communication (exemption)	1	TOTAL	14
5. Transferred / Transmission			

III Exemptions invoked / Exceptions invoquées							
S. Art. 13(1)(a)		S. Art. 16(1)(a)		S. Art. 18(b)		S. Art. 21(1)(a)	1
(b)		(b)		(c)		(b)	1
(c)		(c)		(d)		(c)	
(d)		(d)		S. Art. 19(1)	5	(d)	
S. Art. 14		S. Art. 16(2)		S. Art. 20(1)(a)		S. Art. 22	
S. 15(1) International rel. / Art. Relations interm.		S. Art. 16(3)		(b)		S. Art. 23	
Defence / Défense		S. Art. 17		(c)	1	S. Art. 24	
Subversive activities / Activités subversives		S. Art. 18(a)		(d)	2	S. Art. 26	

IV Exclusions cited / Exclusions citées			
S. Art. 68(a)	1	S. Art. 69(1)(c)	
(b)		(d)	
(c)		(e)	
S. Art. 69(1)(a)		(f)	
(b)		(g)	

V Completion time / Délai de traitement	
30 days or under / 30 jours ou moins	9
31 to 60 days / De 31 à 60 jours	4
61 to 120 days / De 61 à 120 jours	1
121 days or over / 121 jours ou plus	

VI Extensions / Prorogations des délais		
	30 days or under / 30 jours ou moins	31 days or over / 31 jours ou plus
Searching / Recherche	4	
Consultation		
Third party / Tiers		1
TOTAL	4	1

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

VIII Method of access / Méthode de consultation	
Copies given / Copies de l'original	10
Examination / Examen de l'original	
Copies and examination / Copies et examen	

IX Fees / Frais			
Net fees collected / Frais net perçus			
Application fees / Frais de la demande	75	Preparation / Préparation	
Reproduction		Computer processing / Traitement informatique	
Searching / Recherche		TOTAL	75
Fees waived / Dispense de frais		No. of times / Nombre de fois	\$
\$25.00 or under / 25 \$ ou moins		6	\$ 30.60
Over \$25.00 / De plus de 25 \$		1	\$ 170.40

X Costs Coûts	
Financial (all reasons) / Financiers (raisons)	
Salary / Traitement	\$ 100,058.46
Administration (O and M) / Administration (fonctionnement et maintien)	\$ 112.50
TOTAL	\$ 100,170.96
Person year utilization (all reasons) / Années-personnes utilisées (raison)	
Person year (decimal format) / Années-personnes (nombre décimal)	0.90

TBS/SCT 350-62 (Rev. 1999/03)



Appendix B: Report on the Privacy Act



Government of Canada
Gouvernement du Canada

REPORT ON THE PRIVACY ACT RAPPORT CONCERNANT LA LOI SUR LA PROTECTION DES RENSEIGNEMENTS PERSONNELS

Institution Office of the Auditor General of Canada / Bureau du vérificateur général du Canada	Reporting period / Période visée par le rapport 2010-04-01 to/à 2011-03-31
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I Requests under the Privacy Act / Demandes en vertu de la Loi sur la protection des renseignements personnels	
Received during reporting period / Reçues pendant la période visée par le rapport	10
Outstanding from previous period / En suspens depuis la période antérieure	0
TOTAL	10
Completed during reporting period / Traitées pendant la période visée par le rapport	8
Carried forward / Reportées	2

II Disposition of request completed / Disposition à l'égard des demandes traitées	
1. All disclosed / Communication totale	
2. Disclosed in part / Communication partielle	2
3. Nothing disclosed (excluded) / Aucune communication (exclusion)	
4. Nothing disclosed (exempt) / Aucune communication (exemption)	
5. Unable to process / Traitement impossible	2
6. Abandoned by applicant / Abandon de la demande	4
7. Transferred / Transmission	
TOTAL	8

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

TBS/SCT 350-63 (Rev. 1999/03)

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

V Completion time / Délai de traitement	
30 days or under / 30 jours ou moins	6
31 to 60 days / De 31 à 60 jours	2
61 to 120 days / De 61 à 120 jours	
121 days or over / 121 jours ou plus	

VI Extensions / Prorogations des délais		
	30 days or under / 30 jours ou moins	31 days or over / 31 jours ou plus
Interference with operations / Interruption des opérations	1	
Consultation	1	
Translation / Traduction		
TOTAL	2	

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

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

IX Corrections and notation / Corrections et mention	
Corrections requested / Corrections demandées	
Corrections made / Corrections effectuées	
Notation attached / Mention annexée	

X Costs / Coûts	
Financial (all reasons) / Financiers (raisons)	
Salary / Traitement	\$ 25,597
Administration (O and M) / Administration (fonctionnement et maintien)	\$ 809
TOTAL	\$ 26,406
Person year utilization (all reasons) / Années-personnes utilisées (raisons)	
Person year (decimal format) / Années-personnes (nombre décimal)	0.25



Appendix C: Supplemental reporting requirements for the 2010–11 fiscal year

Access to Information Act

In addition to the reporting requirements addressed in form TBS/SCT 350-62, “Report on the Access to Information Act,” institutions are required to use this form to report on the following:

Part III—Exemptions invoked

Section 13

13(e) 0

Section 14

14(a) 0

14(b) 0

Section 16

16.1(1)(a) 1

Part IV—Exclusions cited

Section 69

69.1(1) 0

Privacy Act

The Treasury Board of Canada Secretariat is monitoring compliance with the Privacy Impact Assessment Policy (which came into effect on 2 May 2002) through a variety of means. As a result, institutions are required to report the following information for this reporting period.

Numbers reported during this period:

- preliminary privacy impact assessments initiated: 1
- preliminary privacy impact assessments completed: 0
- privacy impact assessments initiated: 0
- privacy impact assessments completed: 0
- privacy impact assessments forwarded to the Office of the Privacy Commissioner : 0

