



Administration of the *Access to Information Act*

Annual Report to Parliament 2017-2018

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Introduction

The *Access to Information Act* (the Act) gives Canadian citizens, as well as people and corporations present in Canada, the right of access to federal government records that are not of a personal nature and/or subject to certain limited and specific exceptions. The Act complements but does not replace other procedures for obtaining government information. It is not intended to limit in any way the access to government information that is normally available to the public upon request.

This report is submitted in accordance with Section 72 of the Act which requires every head of a federal government institution to submit a report to Parliament on the administration of the Act within their institution during the reporting period. It presents an overview of the *Access to Information Act* activities carried out within the Canadian Environmental Assessment Agency (the Agency) during the reporting period of April 1, 2017 to March 31, 2018.

Established in 1994, the Agency came into being to prepare for the implementation of the *Canadian Environmental Assessment Act*, which came into effect in early 1995. The Agency is a federal body accountable to the Minister of Environment and Climate Change. The Agency provides high-quality environmental assessments that contribute to informed decision making, in support of sustainable development. The Agency is the responsible authority for most federal Environmental Assessments. The current *Canadian Environmental Assessment Act, 2012* (CEAA 2012) came into effect on July 6, 2012. CEAA 2012 and its accompanying regulations provide the legislative framework for environmental assessments.

Organizational Structure

The provision of Access to Information and Privacy (ATIP) services in the Agency is the general responsibility of the Director of the Information Services Division, which reports to the Vice-President and Chief Security Officer, Corporate Services, to fulfill its *Access to Information Act* responsibilities.

The Information Services Division includes Information Management, ATIP, and Information Technology. The ATIP function is the direct responsibility of the ATIP Coordinator and a team of three ATIP Officers.

The ATIP team has administered the Act by:

- Receiving Access requests under the Act, creating request files and tracking the processing of requests using AccessPro Case Management software;
- Assessing required processing time, any fees that were still applicable, and communicating with applicants regarding those assessments;
- Coordinating retrieval of records for response to Access requests;
- Sending statutory notices to applicants, third parties, and the Information Commissioner;

- Conducting necessary consultations;
- Advising applicants and third parties of their rights and obligations under the legislation;
- Negotiating with third parties to secure all the disclosure due under the Act;
- Processing records for disclosure in response to applicants' requests, using AccessPro Redaction software;
- Providing training and advice to Agency officials on interpretation and application of the Act, as well as its interaction with the *Canadian Environmental Assessment Act, 2012*;
- Negotiating the resolution of formal complaints;
- Compiling statistics;
- Responding to Parliamentary Questions related to the administration of the Act;
- Drafting and updating the Agency's procedural documents relating to the processing of Access requests;
- Posting the monthly proactive disclosure of completed Access to Information request summaries on the Open Government Portal (open.canada.ca);
- Preparing, submitting and posting the Agency's annual report to Parliament on the administration of the Act; and
- Preparing, submitting and posting the Agency's annual Info Source update.

Delegation Order

For the purposes of the Act, the Agency's "head of the institution" as defined in section 3 of the Act is the President of the Agency.

The responsibilities associated with the administration of the Act are delegated to the senior executive officers reporting directly to the President (Vice-presidents and General Counsel), as well as the Access to Information and Privacy Coordinator by the President for the effective administration of the program. The decision-making responsibility for the application of the various provisions of the Act is formally established and outlined in the departmental Delegation of Authority Instrument which can be found under Appendix A.

Statistical Report – Interpretation and Analysis

The Statistical Report on Access to Information requests processed by the Agency from April 1, 2017 to March 31, 2018 is included in Appendix B of this report. The following sections provide an overview of key data on the Agency's performance for the year with some explanations, interpretations and analysis of the Statistical Report for 2017-2018.

Subject matter of Access requests received

The requests received during this reporting period dealt with a range of topics including the following:

- Environmental assessment projects and panel reviews;
- Meetings and correspondence involving senior management and industry players;
- Departmental and ministerial briefings;
- Agency records on various industry projects;
- Staffing processes; and
- Procurement matters.

Number, source and disposition of Access requests received

The Agency received 28 requests under the *Access to Information Act* during the 2017-2018 reporting period. Figure 1 is a percentage breakdown of the sources of access requests received in 2017-2018:

Figure 1

Source of Requests	Number	Percentage
Media	2	7.1
Academia	1	3.6
Business	18	64.3
Organization	7	25
Public	0	0
Declined to Identify	0	0
Total	28	100

An additional 6 requests were brought forward from the previous 2016-2017 reporting period, making a total of 34 active requests. Of those 34 active requests, 32 were completed within the reporting period and 2 were not completed and are carried forward to the next reporting period.

There were 2 Informal Requests that were addressed this reporting period which was down from 7 in the previous reporting year. The 2 Informal Requests were completed within 15 days.

During the reporting period, all 32 completed requests were processed within the legislated timeframes (the initial 30-day or the allotted extension period). This includes requests for which the Agency required extensions to consult with other government departments and third parties. Figure 2 shows that the Agency responded to half of the requests by fully or partially disclosing the responsive records found in the Agency's possession. The other half the Agency's requests indicated that the requester abandoned or that no records exist.

Figure 2

Outcomes of completed requests	Number
All disclosed	3
Disclosed in part	13
Nothing disclosed (All exempted)	0
Nothing disclosed (All excluded)	0
No records exist	12
Request transferred	0
Request abandoned	4
Neither confirmed nor denied	0
Total	32

Extensions

Section 9 of the Act allows institutions to extend the legislated timeframe for processing a request if a search for responsive records cannot be completed within 30 days of receipt of the request, or if the institution must consult with other institutions or third parties.

Figure 3 shows that under section 9, the Agency invoked one or more extensions (beyond the initial 30 days) in 13 of the 32 requests completed during the reporting period. This total of 13 requests is reflected in both Table 2.1 of the Statistical Report in Appendix B.

Figure 3

Disposition of Requests	Completion Time							Total
	1 to 15 Days	16 to 30 Days	31 to 60 Days	61 to 120 Days	121 to 180 Days	181 to 365 Days	More Than 365 Days	
All disclosed	0	0	2	1	0	0	0	3
Disclosed in part	0	3	1	4	3	2	0	13

Of the 13 requests requiring one or more extensions, 6 extensions were required because meeting the original time limit would have unreasonably interfered with the operations of the Agency; 1 pertained to cabinet confidences; 9 were required for necessary consultations with other government institutions; and 9 were required for third party notices, as reflected in Table 3.1 of the Statistical Report in Appendix B and highlighted below in figure 4.

Figure 4

Disposition of Requests Where an Extension Was Taken	9(1)(a) Interference With Operations	9(1)(b) Consultation		9(1)(c) Third-Party Notice
		Section 69	Other	
All disclosed	0	0	1	3
Disclosed in part	6	1	8	6
All exempted	0	0	0	0
All excluded	0	0	0	0
No records exist	0	0	0	0
Request abandoned	0	0	0	0
Total	6	1	9	9

All 13 requests demanding extensions required necessary consultations, as highlighted in the second column of figure 5 below, which is excerpted from Table 2.5.3 of the Statistical Report in Appendix B. These necessary consultations included consultations with other government institutions and/or third parties.

Figure 5

Disposition	Consultation Required	Assessment of Fees	Legal Advice Sought	Other	Total
All disclosed	3	0	0	0	3
Disclosed in part	10	0	0	0	10

Access Consultation Requests

The details of Access consultation requests processed during the 2017-2018 reporting period are presented in Part 5 of the Statistical Report in Appendix B. The Agency received 40 Access consultation requests from other federal institutions and 4 from other levels of government for a total of 44 consultation requests received.

In addition, two consultation requests were brought forward from the previous year with no consultations carried over to 2018-2019, resulting in a total of 46 completed consultation requests in 2017-2018. Over 1,500 pages of records were processed in these Access consultations.

Of the 41 completed consultation requests from other federal institutions, 40 were completed within 30 days. Of the 5 completed requests from other organizations 4 were completed within 30 days. These facts are highlighted below in figure 6 and figure 7 and are drawn from Tables 5.2 and 5.3 of the Statistical Report in Appendix B.

Figure 6 and Figure 7 both combine to show that the Agency recommended full disclosure in 31 of the consultation requests, 1 to be exempted entirely, and partial disclosure for the remaining 14 requests.

Recommendations and completion time for consultations received from other Government of Canada institutions

Figure 6

Recommendation	Number of Days Required to Complete Consultation Requests							Total
	1 to 15 Days	16 to 30 Days	31 to 60 Days	61 to 120 Days	121 to 180 Days	181 to 365 Days	More Than 365 Days	
Disclose entirely	25	3	0	0	0	0	0	28
Disclose in part	4	7	1	0	0	0	0	12
Exempt entirely	1	0	0	0	0	0	0	1
Exclude entirely	0	0	0	0	0	0	0	0
Consult other institution	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0
Total	30	10	1	0	0	0	0	41

Recommendations and completion time for consultations received from other organizations

Figure 7

Recommendation	Number of Days Required to Complete Consultation Requests							Total
	1 to 15 Days	16 to 30 Days	31 to 60 Days	61 to 120 Days	121 to 180 Days	181 to 365 Days	More Than 365 Days	
Disclose entirely	2	1	0	0	0	0	0	3
Disclose in part	1	0	1	0	0	0	0	2
Exempt entirely	0	0	0	0	0	0	0	0
Exclude entirely	0	0	0	0	0	0	0	0
Consult other institution	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0
Total	3	1	1	0	0	0	0	5

Multi-year Trends

The following demonstrates the trends that have emerged over the last three reporting periods in comparison with current reporting period.

There were no late files (deemed refusal) in the reporting period and no late files in 2 consecutive reporting periods as noted below in Figure 8.

Figure 8

Access to information requests	2014-2015	2015-2016	2016-2017	2017-2018
Number of ATI requests closed	41	35	53	32
Number of late files	1	1	0	0

Changes in the source of requests are shown in Figure 9. In the 2017-2018 period, a small percentage of requesters identified themselves as Media and there was a sharp decrease in using the option “Decline to Identify.”

Figure 9 also shows that requests from the Business sector continue to increase. The Organization category has been decreasing throughout the years. For the first time in three reporting periods, we received a requestor identifying themselves as the Academia category.

Figure 9

Source of requests 2014-2018	2014-2015		2015-2016		2016-2017		2017-2018	
	#	%	#	%	#	%	#	%
Total number of requests received	41	100%	39	100%	51	100%	28	100%
Media (Number and %)	0	0%	4	10%	7	14%	2	7%
Academia (Number and %)	3	7%	0	0%	0	0%	1	4%
Business (Number and %)	19	46%	14	35%	22	43%	18	64%
Organization (Number and %)	1	2%	18	46%	13	26%	7	25%
Public (Number and %)	17	41%	2	5%	3	6%	0	0%
Decline to Identify	1	2.4%	1	2.6%	6	12%	0	0%

Figure 10 illustrates the increased trend for the release of records in CD format rather than paper.

Figure 10

Format of release packages	2014-2015	2015-2016	2016-2017	2017-2018
Release format: paper	9	10	15	5
Release format: electronic (CD)	12	4	12	11
Percentage electronic	57%	29%	44%	69%

With regard to Access consultations, it is noted in this reporting period that the percentage of consultations from federal institutions increased and from other organizations decreased. This is detailed below in figure 11.

Figure 11

Access consultations received	2014-2015	2015-2016	2016-2017	2017-2018
No. of federal institution consults	51	31	53	40
No. of other organization consults	3	5	9	4
% of consults from other organizations	6%	8%	15%	9%

Training and Awareness

Agency employees are provided with training and guidance to assist them in fulfilling their duties under the *Access to Information Act*. The ATIP Team provides advice and support on an as-needed basis.

Training material developed in the 2017-2018 reporting period was utilized at the end of the current reporting period for all Agency employees to attend an overview of their ATIP-related roles and responsibilities between the ATIP Office and the Office of Primary Interest (OPI). The Agency held 5 training sessions in February 2018 and 105 employees participated in the sessions. Agency employees attended both in person at headquarters or via videoconference for regional office staff.

Employees have also been directed to take the ATIP-related training offered by the Canada School of Public Service. Training and reference materials are also made available to employees on the Agency's Intranet site.

Policies, Guidelines and Procedures

No new Agency policy regarding administration of the *Access to Information Act* was implemented during the reporting period; however, the Agency is getting ready for the proactive publication requirements as introduced in Bill C-58 – *An Act to amend the Access to Information Act and the Privacy Act and to make consequential amendments to other Acts*.

The Agency revised our templates used for correspondence with OPIs and we have streamlined the approval process. The records retrieval procedure and the tasking process was revised and clarified further with OPI - roles and responsibilities under the ATIP Acts have been also clarified and further guidance was provided on the obligation to providing recommendations to ATIP.

We revised our letters to requesters to include directions on how to submit a complaint electronically to the Office of the Information Commissioner.

Complaints, Audits and Investigations

During the 2017-2018 reporting period, figure 12 below indicates the Office of the Information Commissioner notified the Agency of 4 new complaints, where 2 are for the length of the extensions that were taken on the requests and 2 for the exemptions applied to the documents and the exclusion provision set out in section 69 of the Access to Information Act. The Office of the Information Commissioner has since closed the first 2 complaints and is currently investigating the remaining 2 complaints received in 2017-2018. Prior to this reporting period, there were 4 outstanding complaints in which 2 were from the same request in 2016-2017 and 2 were also carried over from the same request in 2015-2016. The Office of the Information Commissioner is currently investigating the remaining 6 active complaints, and no appeals have been filed with the Federal Court of Appeal on closed complaints.

Figure 12

Complaints / Investigations	2014-2015	2015-2016	2016-2017	2017-2018
Number of complaints carried over from previous reporting period	0	0	5	4
Number of complaints received	1	7	2	4
Number of complaints closed	1	2	3	2
Number of complaints active at end of reporting period	0	5	4	6

Monitoring and Reporting

The Agency continues to ensure compliance with the *Access to Information Act* through effective reporting and monitoring mechanisms. Weekly ATIP reports are prepared for the Vice-President and Chief Security Officer, Corporate Services, and shared with members of the Executive Management Committee. These reports include detailed status of individual requests, compliance statistics, and any complaint investigations.

A weekly Access to Information (ATI) report is provided to the Minister's Office which includes new ATI requests and anticipated releases. These reports also include request description, status of any individual requests and number of pages to be released.

Special reports are also submitted to provide justifications for time extensions and to outline plans for timely completion of complex or high-profile requests. Extensions over 90 days require the approval of the Executive Management Committee. Extensions under 90 days require the approval of the Vice-President and Chief Security Officer, Corporate Services, and disclosure to the Executive Management Committee.

Canadian Environmental Assessment Registry Requests

As required under the *Canadian Environmental Assessment Act, 2012*, the Agency facilitates public access to information and records related to environmental assessments, through the Canadian Environmental Assessment Registry (the Registry). Formal processes are in place to provide the public with access to environmental assessment records without recourse under the *Access to Information Act*.

However, prior to release of information, Registry officers are required to sever records in accordance with section 81(1) of the *Canadian Environmental Assessment Act, 2012*, which refers to the *Access to Information Act*, allowing disclosure of only what "would have been disclosed to the public in accordance with the ATI Act if a request had been made in respect of that record under that Act." In that regard, the ATIP Office provides guidance upon request from Registry officers.

In addition, the ATIP Office refers requesters to the program responsible for granting access to Registry records in accordance with the *Canadian Environmental Assessment Act* and CEAA 2012.

Appendix A: Designation Order

DESIGNATION ORDER (Access to Information Act)

As head of the Canadian Environmental Assessment Agency for purposes of the *Access to Information Act*, I hereby designate, under section 73 of that Act, the officers and employees of the Canadian Environmental Assessment Agency, who hold the positions set out in the attached Annex, to exercise or perform all of the powers, duties or functions that are conferred upon me by the provisions of the *Access to Information Act* specified in the aforementioned Annex.



Ron Haliman
President/Président
Canadian Environmental Assessment
Agency/Agence canadienne d'évaluation
environnementale

ARRÊTÉ DE DÉLÉGATION (Loi sur l'accès à l'information)

En tant que responsable de l'Agence canadienne d'évaluation environnementale aux fins de la *Loi sur l'accès à l'information*, je délègue, en vertu de l'article 73 de cette Loi, à des cadres et employés de l'Agence canadienne d'évaluation environnementale qui détiennent les postes présentés à l'annexe ci-jointe, mes attributions conférées par les dispositions de la *Loi sur l'accès à l'information* spécifiées dans cette annexe.

23 July '14
Date (Date)

Annex to Designation Order (Access to Information Act) Dated – July 2014
Annexe à l'Arrêté de délégation (Loi sur l'accès à l'information) datée juillet 2014

The Access to Information and Privacy Coordinator and the Senior Executive Officers reporting directly to the President of the Canadian Environmental Assessment Agency are designated to exercise or perform all powers, duties or functions of the President as the head of the Canadian Environmental Assessment Agency under the provisions of the *Access to Information Act* listed below. This designation replaces all previous delegation orders.

Toutes attributions du responsable de l'Agence canadienne d'évaluation environnementale conférées par les dispositions ci-dessous de la *Loi sur l'accès à l'information* sont déléguées aux Agents principaux exécutifs qui se rapportent au président, ainsi qu'au Coordonnateur de l'accès à l'information et de la protection des renseignements personnels de l'Agence canadienne d'évaluation environnementale. Le présent document remplace et annule tout arrêté antérieur.

7(a)	Respond to request for access, give access or give notice	Répondre à une demande de communication; donner accès ou aviser par écrit
8(1)	Transfer to institution which has a greater interest	Transmettre la demande à une autre institution
9	Extend time limit	Proroger le délai
11	Assess fees	Évaluation des frais
12(2)(b)	Language of access	Version de la communication
12(3)	Access in an alternative format	Communication des renseignements sur un support de substitution.
13(1)	Apply exemption - Information obtained in confidence from other governments	Exception - Renseignements obtenus à titre confidentiel d'autres gouvernements
14	Apply exemption - Federal-provincial affairs	Exception - Affaires fédéro-provinciales
15	Apply exemption - International affairs and defense	Exception - Affaires internationales et défense
16	Apply exemption - Law enforcement and investigations	Exception - Enquêtes et respect des lois
16.5	Apply exemption - Public Servants Disclosure Protection Act	Exception - Loi sur la protection des fonctionnaires divulgateurs d'actes répréhensibles
17	Apply exemption - Safety of individuals	Exception - Sécurité des individus
18	Apply exemption - Economic interests of Canada	Exception - Intérêts économiques du Canada
18.1	Apply exemption - Economic interests of certain government institutions	Exception - Intérêts économiques de certaines institutions fédérales
19(1)	Apply exemption - Personal information	Exception - Renseignements personnels
19(2)	Disclose personal information	Communication des renseignements personnels
20	Apply exemption - Third party information	Exception - Renseignements de tiers
21	Apply exemption - Operations of government	Exception - Activités du gouvernement
22	Apply exemption - Testing procedures, tests and audits	Exception - Examens et vérifications
22.1	Apply exemption - Internal audits	Exception - Vérifications internes
23	Apply exemption - Solicitor/client privilege	Exception - Secret professionnel des avocats

Annex to Designation Order (Access to Information Act) Dated - July 2014
Annexe à l'Arrêté de déléation (Loi sur l'accès à l'information) datée juillet 2014

24	Apply exemption - Statutory prohibitions against disclosure	Exception - Interdictions fondées sur d'autres lois
26	Apply exemption - Information to be published	Exception - En cas de publication
27(1)	Notify third party of intent to disclose information	Avis aux tiers
27(4)	Extend time limit	Proroger le délai
28(1)(b)	Disclose information after third party representations	Communication de renseignements après présentation des observations de tiers
28(2)	Waive requirement that third party representation be in writing	Autorisation de faire des observations orales
28(4)	Disclose information where no third party review requested	Communication du document
29(1)	Notify all parties of disclosure on recommendation of Information Commissioner	Communication suite à une recommandation du Commissaire à l'information
33	Advise Information Commissioner of third party involvement	Avis au Commissaire à l'information de la participation d'un tiers
35(2)	Make representations to the Information Commissioner in the course of an investigation	Présenter des observations au Commissaire à l'information au cours d'une enquête
37	Give notice to the Information Commissioner of action taken/to be taken to implement recommendations and provide access to complainant	Aviser par écrit le Commissaire à l'information des mesures prises ou envisagées pour la mise en œuvre des recommandations et accorder l'accès aux documents au plaignant.
43(1)	Notice to third party (application to Federal Court for review)	Avis au tiers (révision par la Cour fédérale de Canada)
44(2)	Notice to applicant (application to Federal Court by third party)	Avis à la personne qui a fait la demande (demande de révision par la Cour fédérale faite par un tiers)
52(2)	Special rules for hearings	Règles spéciales pour l'audition des causes
69 (1)	Exclusion - Confidences of the Queen's Privy Council for Canada	Exclusion - Document confidentiels du Conseil privé de la Reine pour le Canada
71(2)	Exempt information severed from manuals	Prélèvement des renseignements visés par une exception des manuels
72(1)	Prepare annual report to Parliament	Établir le rapport d'application de la Loi pour présentation au Parlement
77	Responsibilities conferred to the head of the institution by the regulations made under section 77 which are not included above	Les responsabilités attribuées par règlement au responsable de l'institution en vertu de l'article 77 qui ne sont pas incluses ci-dessus

Appendix B: Statistical Report on the *Access to Information Act*