

**Submission to the Information and Privacy Policy Division
Treasury Board of Canada Secretariat:
Improving the *Access to Information Act***

The Professional Institute
of the Public Service
of Canada



L'Institut professionnel
de la fonction publique
du Canada

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The Professional Institute of the Public Service of Canada

250 Tremblay Road, Ottawa, Ontario K1G 3J8
Tel.: 613.228.6310
www.pipsc.ca

Introduction

The Professional Institute of the Public Service of Canada (PIPSC) represents some 55,000 professionals across Canada's public sector.

The following are the Institute's comments on each of the 8 specific proposals brought forward by the Government of Canada to improve the *Access to Information Act*.

Note: for reasons of brevity, the full text of these proposals has been omitted and only the title of each proposal is used below.

Proposal 1 - Make government data and information open by default, in formats that are modern and easy to use.

(i) There is a need to clearly define the "privacy, confidentiality, and security reasons" that can be used by government departments and agencies to withhold information from the Canadian public.

(ii) There exist technological solutions that could mitigate the risk of black-out reversal caused by format changes, for example simply deleting the blacked-out section and inserting a symbol to identify that a deletion has taken place. This would allow the information to be presented in a more usable format while preventing the inclusion of sensitive information in released documents.

(iii) To diminish potential expenses associated with converting information from one format to another, the government could introduce a cost limit on ATIP requests.

Proposal 2 - Eliminate all fees, except for the initial \$5 filing fee.

PIPSC applauds this initiative but is concerned that revenue shortfalls could serve as a pretext for delayed or incomplete responses to ATIP requests. Government departments and agencies incur costs in gathering and preparing the relevant information that are unlikely to be fully recouped by the filing fee. The government must empower the new policy by putting in place the necessary resources at the departmental or agency level to ensure the timely and complete processing of ATIP requests.

Proposal 3 - When information cannot be released, provide requestors with a written explanation.

The Institute believes this is a step in the right direction.

Proposal 4 - Give government institutions and the Information Commissioner authority to decline to process requests or complaints that are frivolous or vexatious.

(i) The terms “frivolous or vexatious” must be clearly defined in both the submission guidelines and the evaluation criteria.

(ii) While some individuals or organisations may burden the ATIP system by filing repeated or unreasonable requests, “frivolous or vexatious” must not be used to decline requests that a government institution may deem too costly or politically sensitive to process.

Proposal 5 - Give the Information Commissioner the power to order the release of government information.

(i) PIPSC applauds this initiative which empowers the Commissioner’s Office and aligns it with Commissioners in British Columbia, Alberta, Ontario, Prince Edward Island and Quebec.

(ii) Appropriate use of this power will allow for a faster and more productive resolution method and unburden the Federal Court of Canada.

Proposal 6 - Ensure that the *Access to Information Act* applies appropriately to the Prime Minister's and Ministers' Offices, as well as administrative institutions that support Parliament and the courts.

(i) Expanding the *Act* in this manner is, on paper, an excellent idea.

(ii) However, the “Open and Accountable Government” guide still makes it possible for information requested to arbitrarily fall into a “grey area” between categories. Insufficiently precise definitions and the lack of independent oversight may greatly undermine this proposal.

(iii) This can also be said of what constitutes “confidential” ministerial information.

(iv) “Appropriate protections” for ministerial offices must be clearly defined.

Proposal 7 - Undertake a legislative review of the *Access to Information Act* every five years.

(i) This proposal would be particularly useful in measuring the impact of these new measures and addressing issues such as backlogs, unclear definitions, and which government institutions are having difficulty meeting their ATIP requirements.

(ii) Legislative reviews must not, however, be used by future governments as a means to roll back the scope and intent of the *Act*.

Proposal 8 - Strengthen performance reporting on the federal access to information program.

The introduction of a statistical approach to measuring the performance of the program is an excellent idea. The information should also provide a breakdown by department and ministerial office.

Conclusion

The Professional Institute fully supports the principle of facilitating Canadians' access to government information, and recommends that lawmakers give its comments and suggestions every consideration as they draft amendments to the *Access to Information Act*.