

OBSERVATIONS ON THE HEALTH OF THE ACCESS SYSTEM 2013–2014

The Commissioner's 2013–2014 annual report noted a 30% increase in complaints registered (new complaints about administrative matters grew by 54%). These increases reflect the difficulties several institutions have in meeting their obligations under the *Access to Information Act* (hereinafter the Act).

The following analysis presents the findings on the performance of selected institutions for the 2013–2014 period. It is based on analysis of several sources of information, including annual reports on the administration of the Act submitted to Parliament by the institutions, the Info Source Bulletin produced by the Treasury Board Secretariat (TBS), information on complaints received by the OIC, as well as answers provided by institutions to written parliamentary questions.

The performance of the following 27 institutions¹ was analyzed:

- Aboriginal Affairs and Northern Development Canada (AANDC)
- Canada Border Services Agency (CBSA)
- Canada Post Corporation (CPC)²
- Canada Revenue Agency (CRA)
- Canadian Broadcasting Corporation (CBC)
- Canadian Food Inspection Agency (CFIA)
- Canadian Security Intelligence Service (CSIS)
- Citizenship and Immigration Canada (CIC)
- Correctional Service of Canada (CSC)
- Department of Finance Canada (Fin)
- Department of Fisheries and Oceans Canada (DFO)
- Department of Foreign Affairs, Trade and Development (DFATD)³
- Department of Justice Canada (JUS)
- Department of National Defence (DND)
- Employment and Social Development Canada (ESDC)
- Environment Canada (EC)
- Health Canada (HC)
- Industry Canada (IC)

¹ These 27 institutions were chosen because they were among the 20 institutions that received the most access requests and/or against which the greatest number of complaints were lodged in 2013–2014.

² Note that CPC is not one of the top 20 institutions for the period 2013–2014. However, we decided to keep it in our analysis due to difficulties encountered in 2012–2013 regarding delays in processing requests.

³ DFATD presented three statistical reports in their 2013–2014 Annual Report: a report for DFAIT for the period of April 1 to June 26, 2013; a report for CIDA for the period of April 1 to June 26, 2013 and a report for DFATD for the period of June 27, 2013 to March 31, 2014. For the purpose of this analysis, the data for all three reports were amalgamated to cover the entire period of 2013–2014. Given the volume of requests received by CIDA in the first 87 days of the fiscal year (41 requests), we found that, in most instances, including the statistics for CIDA had minimal or no impact on DFATD's results.

- Library and Archives Canada (LAC)
- Natural Resources Canada (NRCan)
- Privy Council Office (PCO)
- Public Health Agency of Canada (PHAC)
- Public Safety Canada (PS)
- Public Works and Government Services Canada (PWGSC)
- Royal Canadian Mounted Police (RCMP)
- Transport Canada (TC)
- Treasury Board of Canada Secretariat (TBS)

The Act applies to about 251 institutions across the federal government. Although the 27 selected institutions in this analysis do not represent the entire federal access to information system, together, they received a total of 56,171 requests, approximately 93.5% of all requests received across government in 2013–2014.⁴ About half of all institutions subject to the Act (124) received less than 30 requests that year (with 88 receiving 10 or less requests).

A detailed analysis of the performance of each of these institutions is available on the OIC [website](#). A table summarizing the results is also [attached](#).⁵

Again this year, the OIC noted that performance among the selected institutions was volatile and varied from one institution to another. However, there was one difference compared to the 2012–2013 statistical analysis: the results of institutions that underperformed in terms of time completion in 2012–2013 had worsened (for instance, CFIA, DFATD and the RCMP), which further widened the gap among the various institutions.

Overall performance

The OIC has traditionally looked at two (2) primary indicators over a period of time to assess the overall health of the access to information system: the percentage of requests completed within 30 days and the percentage of requests for which all information was disclosed. These form part of the analysis in this report. The OIC also considered three (3) indicators for workload, four (4) indicators for timeliness and two (2) indicators for disclosure.

Across government, approximately 61.0% of requests were processed within 30 days, and all information was disclosed for 26.8% of requests for the period 2013–2014. Only three of the 27 institutions reviewed outperformed these rates: CBSA, LAC, and CIC (See Figure 1). Over half of them had below average results for the two key performance indicators.

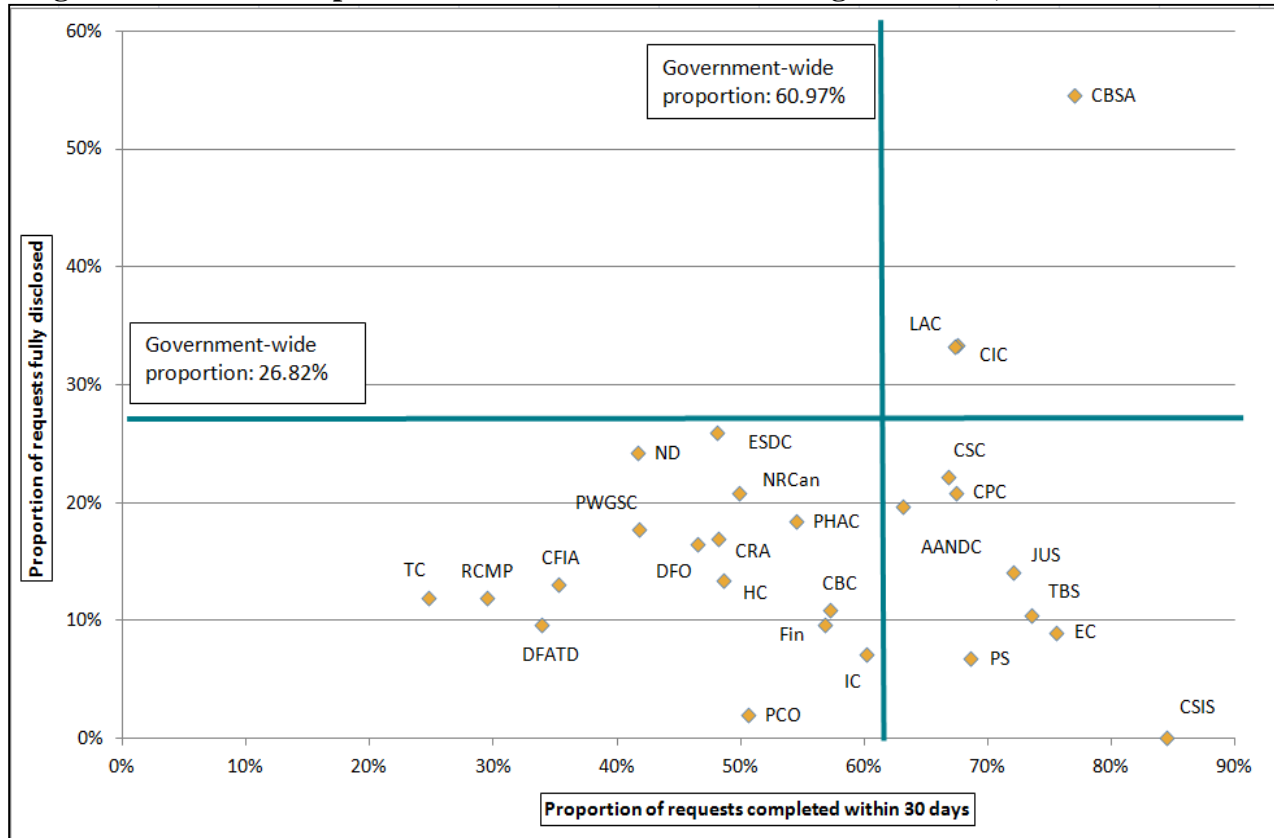
This indicates a gap between overall performance across government and the individual results of institutions. Overall performance was actually influenced by the performance of two institutions in 2013–2014: CBSA and CIC. These two institutions had a strong statistical impact,

⁴ And 93.4% of all requests completed during the period.

⁵ Many of the institutions emphasized the specificity of their workload in terms of complexity, volume of pages and the mandatory application of certain exemptions or exclusions which limit, in their view, comparability among institutions. The analysis in this report is presented objectively without putting weights on these possible specificities.

because they accounted for more than half (53.8%) of completed requests. Excluding requests completed by these two institutions, the percentage of requests completed within 30 days decreases to 52.2% and the percentage of requests for which all information was disclosed drops to 16.0%.

Figure 1. Institutional performance relative to rates across government, 2013–2014



Workload

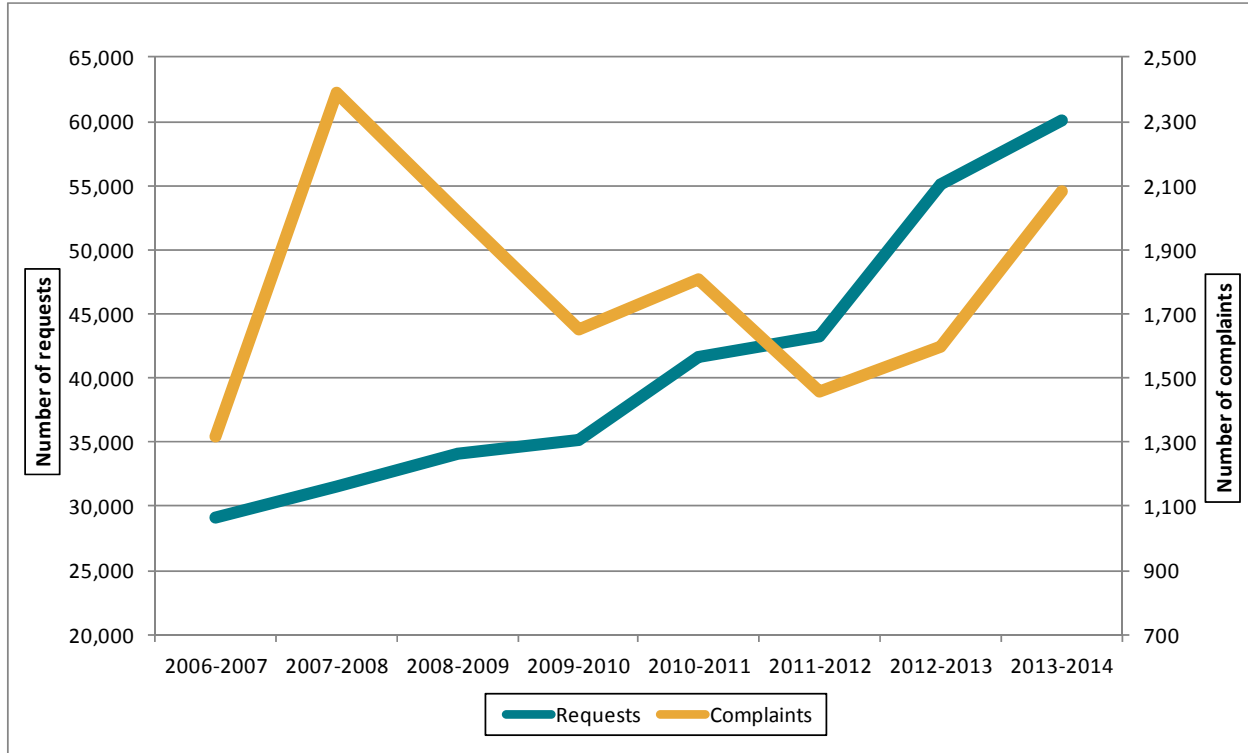
The OIC used three different indicators to assess workload:

1. Number of access to information requests received;
2. Number of consultations received;
3. Number of pages processed.

1. Number of access to information requests received

During the last decade, the government received an increased number of access to information requests. Figure 2 shows these requests increased by 138.4% in 10 years. Complaints fluctuated significantly.

Figure 2. Access to information requests and complaints across government, 2006–2007 to 2013–2014



Source: Info Source Bulletins: Access to Information and Privacy Statistical Reporting.

In 2013–2014, institutions received 60,105 requests and their workload increased by 9%.

For the second consecutive year, members of the public, with 39.5% of all requests received in 2013–2014, represented the primary source of requests.

Sources of requests:

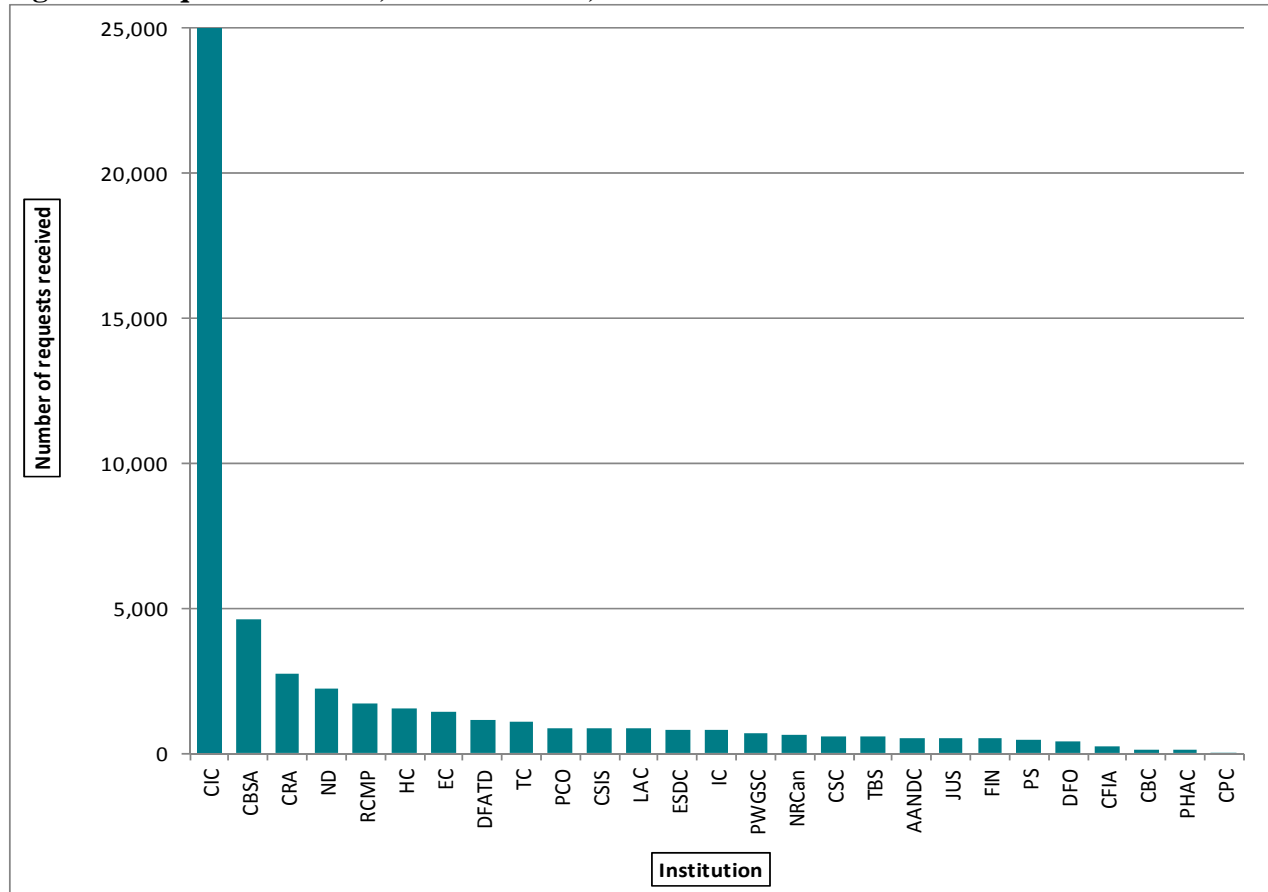
- Public: 23,723 (39%)
- Business: 23,129 (38%)
- Media: 8,421 (14%)
- Organizations: 2,898 (5%)
- Academia: 1,934 (3%)

Figure 3 shows the volume of requests received by the 27 institutions reviewed. CIC received the largest number of requests by far, with over 48.8% of requests across government.

Institutions whose workload increased significantly include: TBS (+92.0%), CSIS (+85.0%), JUS (+59.8%), CBSA (+48.4%) and the RCMP (+42.0%). The number of requests received by CIC also increased by 4,200 (+17.1%).

However, 13 of the 27 institutions received fewer requests in 2013–2014⁶: TC (-50.3%), CFIA (-29.9%), PHAC (-29.7%), DFO (-23.8%), EC (-20.1%), CSC (-19.7%), AANDC (-14.2%), CRA (-12.3%), HC (-11.4%), PWGSC (-11.4%), NRCan (-10.4%), PS (-5.9%) and LAC (-2.6%).

Figure 3. Requests received, 27 institutions, 2013–2014



Source: Individual institutions' annual report to Parliament on the administration of the *Access to Information Act*.

The 9% increase in the number of requests received in 2013–2014 compared to the previous period was almost entirely absorbed by the institutions, since the request processing rate⁷ decreased by 2% (from 86 to 84%).

Figure 4 shows the completion rate of the 27 institutions reviewed. The three institutions that completed the largest percentage of their requests were: CSIS (95.0%), PS (94.1%) and IC (90.3%).

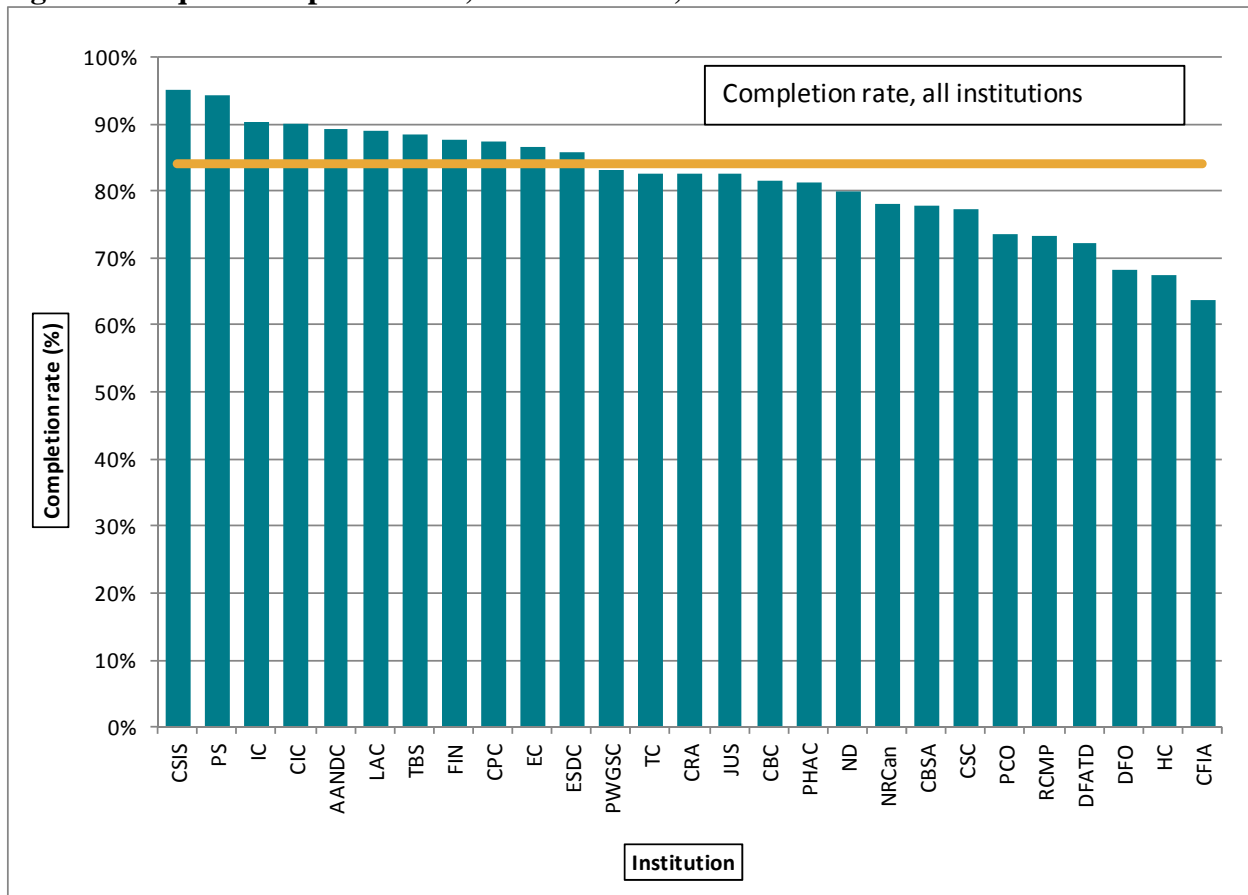
In contrast, CFIA, HC and DFO all obtained a completion rate of less than 70%. These completion rates are significantly below the average across government and likely to have

⁶ In comparison, three of the institutions reviewed received fewer requests in 2012–2013: the RCMP, TBS and the CBC.

⁷ The completion rate is calculated by dividing the number of requests completed during the year by the total number of requests in inventory (new requests received during the fiscal year and requests carried over from the previous fiscal year).

negative effects on these institutions' ability to complete their requests in a timely manner for years to come.

Figure 4. Request completion rate, 27 institutions, 2013–2014



Source: Individual institutions' annual report to Parliament on the administration of the *Access to Information Act*.

2. Number of consultations received

In addition to access requests, institutions receive consultation requests from other government institutions, and other institutions (e.g., provincial, territorial or international institutions). The number of consultations can significantly increase the workload of some institutions. Due to changes in the policy on consultations,⁸ the number of consultation requests in 2013–2014 decreased by 18.1% compared to the previous year.

⁸ The primary reason for the decrease is a change to the *Directive on the Administration of the Access to Information Act* that has limited the need for inter-institutional consultations with respect to sections 15 and 16 of the Act.

Table 1. Consultation requests, 2011–2012 to 2013–2014

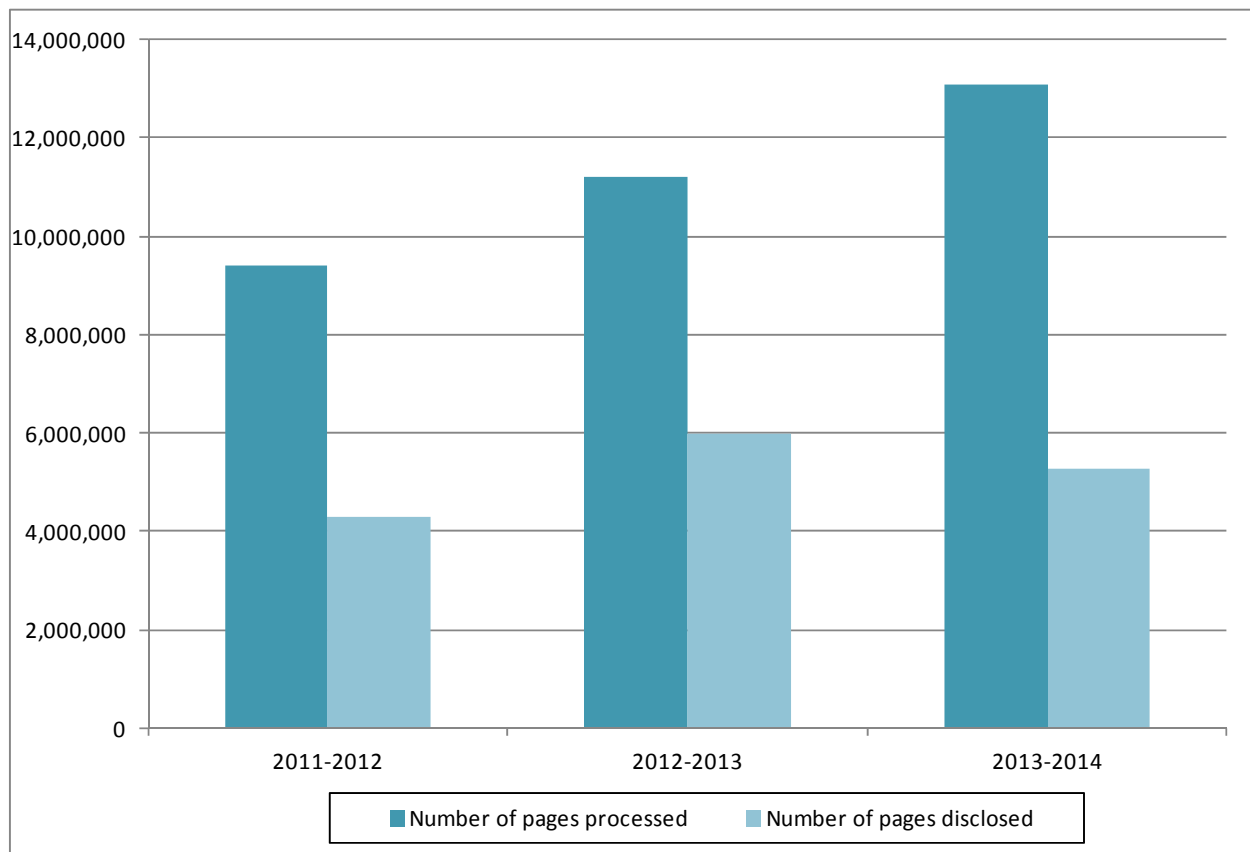
	2011–2012	2012–2013	2013–2014
Consultation Requests	10,601	11,421	9,351

Source: Info Source Bulletins: Access to Information and Privacy Statistical Reporting.

3. Number of pages processed

TBS started gathering information on the number of relevant pages processed and disclosed in 2011–2012. In the last three years, there has been a 39.1% increase in the number of pages processed and a 22.4% increase in the number of pages disclosed.

Figure 5. Relevant pages processed and disclosed pursuant to requests under the *Access to Information Act*, 2011–2012 to 2013–2014

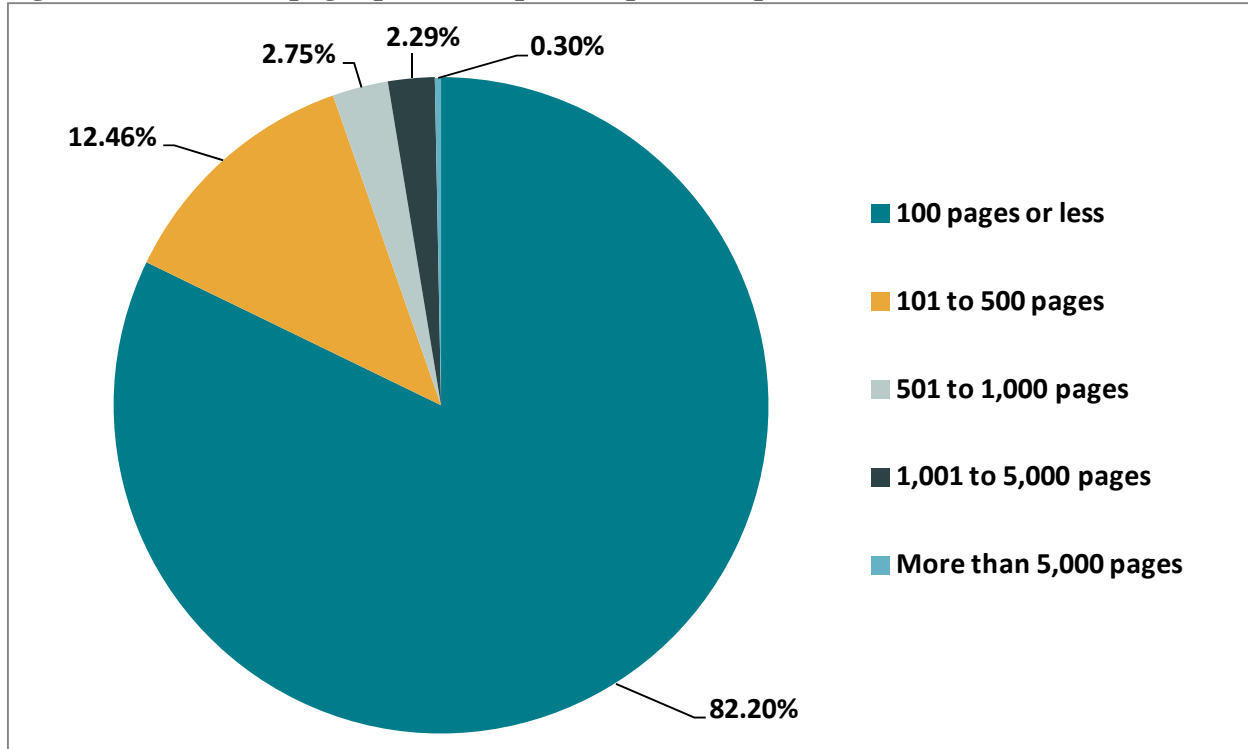


Source: Info Source Bulletins: Access to Information and Privacy Statistical Reporting.

In terms of complexity of requests (volume of pages processed), proportions were similar to 2012–2013. The OIC usually considers a request to be large when it requires the processing of

more than 1,000 pages.⁹ As shown in figure 6, these requests accounted for about 2.6% of all completed requests in 2013–2014. In fact, most completed requests (82.2%) necessitated the processing of 100 pages or less.

Figure 6. Number of pages processed per completed request, 2013–2014



Source: Info Source: Access to Information and Privacy Statistical Reporting (XML version).

Request completion time

The Act stipulates that a government institution must process access requests within 30 days of receipt, except in specific cases in which an extension may be requested, as set out in subsection 9(1) of the Act.

The OIC used four indicators to determine request completion time:

1. Percentage of requests completed within 30 days;
2. Percentage of requests completed late;
3. Average request completion time;
4. Number and length of extensions.

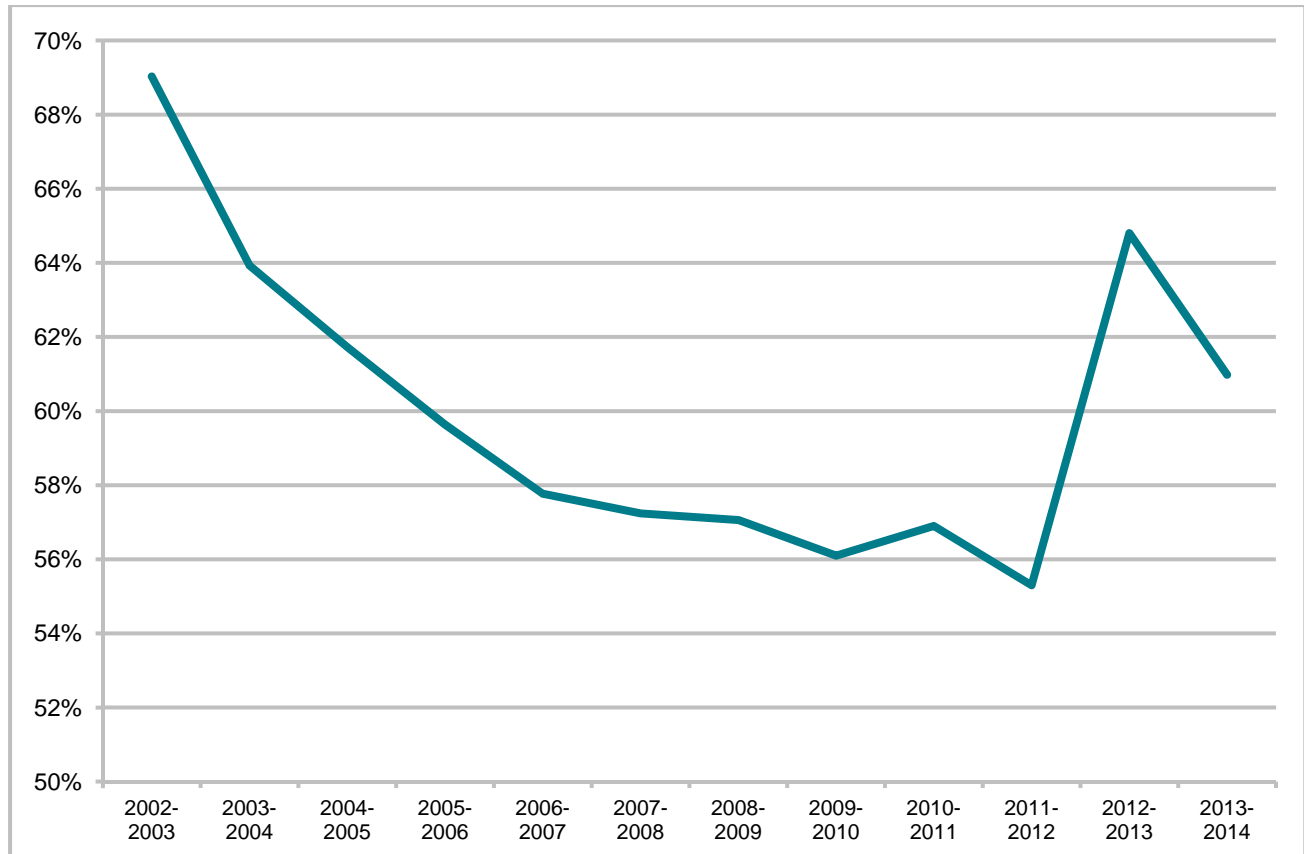
1. Number of requests completed within 30 days

The percentage of requests completed within 30 days indicates how many requests were actually completed without an extension or outside the original response period.

⁹ See advisory notice on time extensions pursuant to paragraph 9(1)(a) of the *Access to Information Act* : http://www.oic-ci.gc.ca/eng/rr-sl-odi-adi_2011_1.aspx

In 2013–2014, 61% of requests across government were completed within 30 days. This is a decrease from 2012–2013 which stood at 64.8%.

Figure 7. Percentage of requests completed within 30 days across government, 2002–2003 to 2013–2014



Source: Info Source Bulletins: Access to Information and Privacy Statistical Reporting.

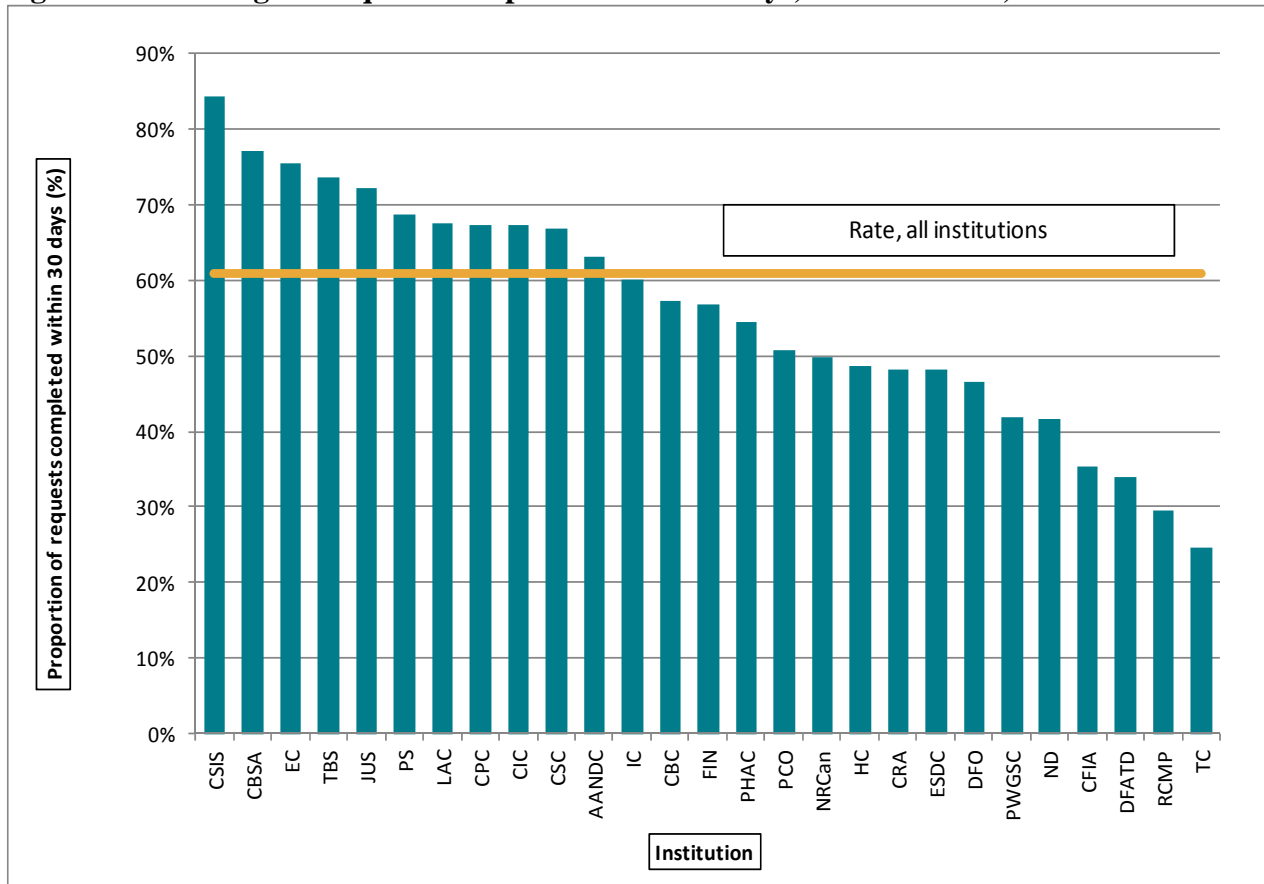
Figure 8 shows that the percentage of requests completed within 30 days varied significantly among institutions. CSIS achieved the best results among the 27 institutions reviewed, completing more than 84.0% of its requests within 30 days.¹⁰ This percentage contrasted sharply with results obtained by TC, which completed only 24.6% of its requests within 30 days.

Nine other institutions' 30-day completion rates were below 50%: the RCMP (29.3%), DFATD (33.8%), CFIA (35.2%), DND (41.6%), PWGSC (41.7%), DFO (46.3%), ESDC (48.0%), CRA (48.1%) and HC (48.5%).

More than half of the 27 institutions reviewed completed a lower percentage of requests within 30 days than they had in 2012–2013.

¹⁰ CSIS included informal requests for material previously released under the Act as part of their calculation. Typically, these requests take less time to process. Based on TBS' guide, these requests should not be recorded as formal requests.

Figure 8. Percentage of requests completed within 30 days, 27 institutions, 2013–2014



Source: Individual institutions' annual report to Parliament on the administration of the *Access to Information Act*.

2. Percentage of requests completed late

Requests not completed within the 30-day period prescribed by the Act or within an extended deadline are deemed to be a refusal by the institution to respond to the request.

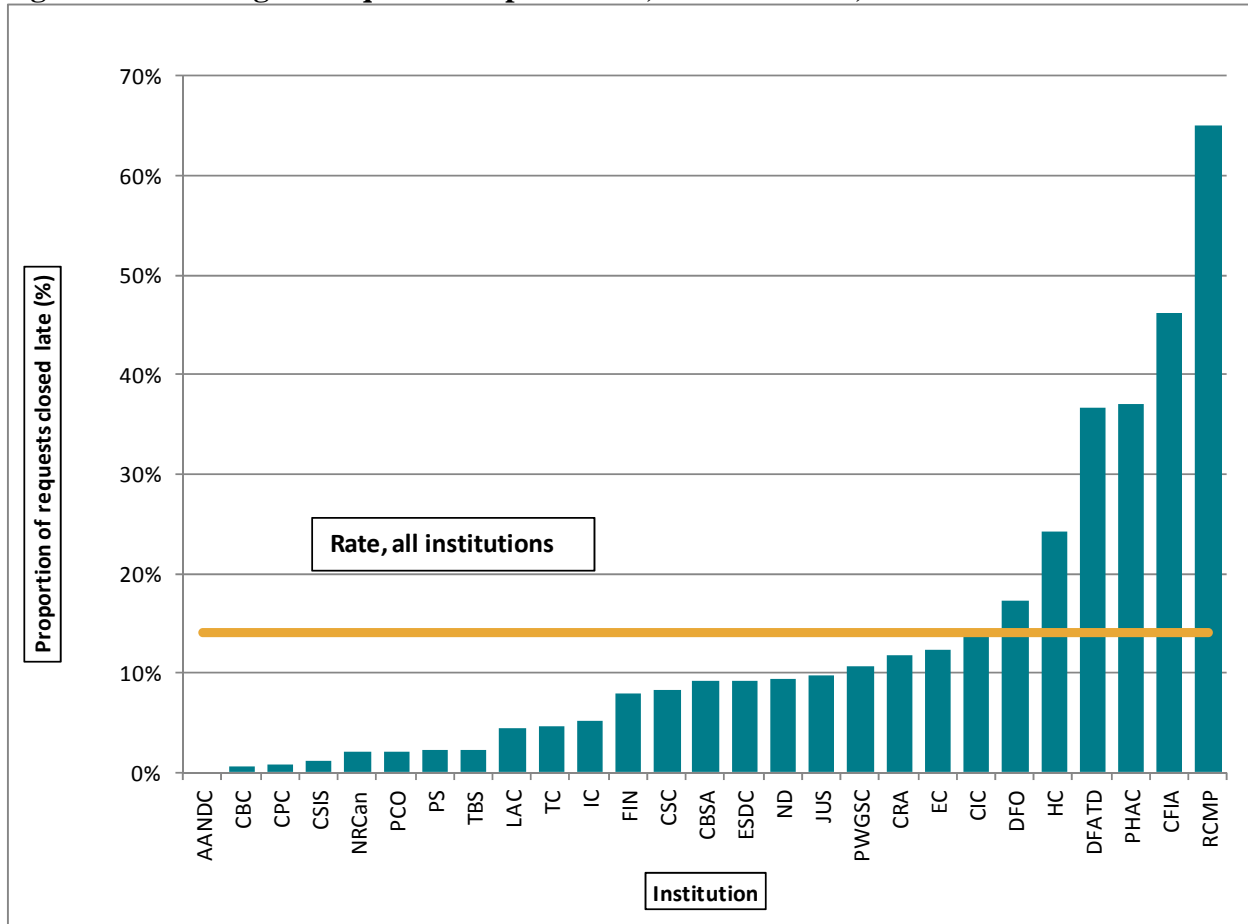
This year, a total of 8,197 requests fell under this category across all institutions, i.e. 14% of completed requests (an increase compared to 2012–2013, which stood at 10.7%).

For the second consecutive year, AANDC completed all its requests on time. In contrast, the RCMP was late in completing over 65% of its requests.

Overall, six institutions underperformed significantly: DFO (17.4%), HC (24.3%), DFATD (36.7%), PHAC (37.0%), CFIA (47.3%), and the RCMP (65.0%).

Finally, CPC significantly improved its performance from 25.9% in 2012–2013 to 0.91% in 2013–2014. TC also significantly decreased the number of requests completed late, from 21.4% to 4.6%. However, as shown in Figure 12 (time extensions per request completed), TC's performance figures are misleading because a large number of requests were completed within extended deadlines. This is also confirmed by the average request completion time (Figure 9) which shows TC came in last among the 27 institutions examined.

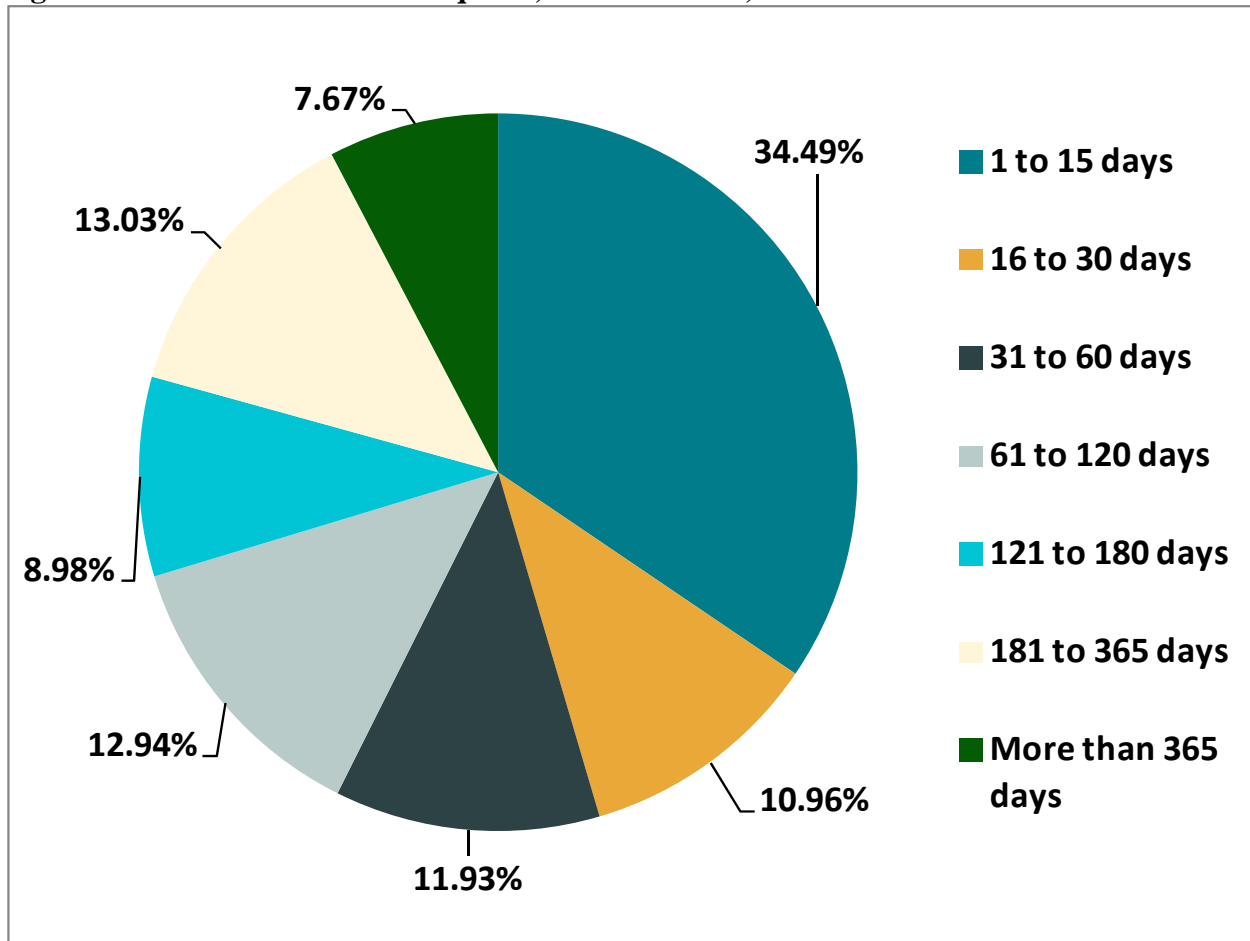
Figure 9. Percentage of requests completed late, 27 institutions, 2013–2014



Source: Individual institutions' annual report to Parliament on the administration of the *Access to Information Act*.

About 45.5% of overdue requests were late by less than 30 days, which is an improvement from the previous period.

Figure 10. Lateness of overdue requests, all institutions, 2013–2014



Source: Info Source Bulletin Number 37B: Access to Information and Privacy Statistical Reporting, 2013–2014 (<http://www.infosource.gc.ca/bulletin/2014/b/bulletin37btb-eng.asp>).

3. Average request processing time

In response to a written question, the OIC was able to obtain the average number of days needed for institutions to complete their requests for the period 2013–2014.¹¹

The average across government is not available because the data were provided by category (from 0 to 30 days, for example). However, based on the class distribution average,¹² we estimate that the average was 53 days per request completed in 2013–2014 (compared to 46 days in 2012–2013).

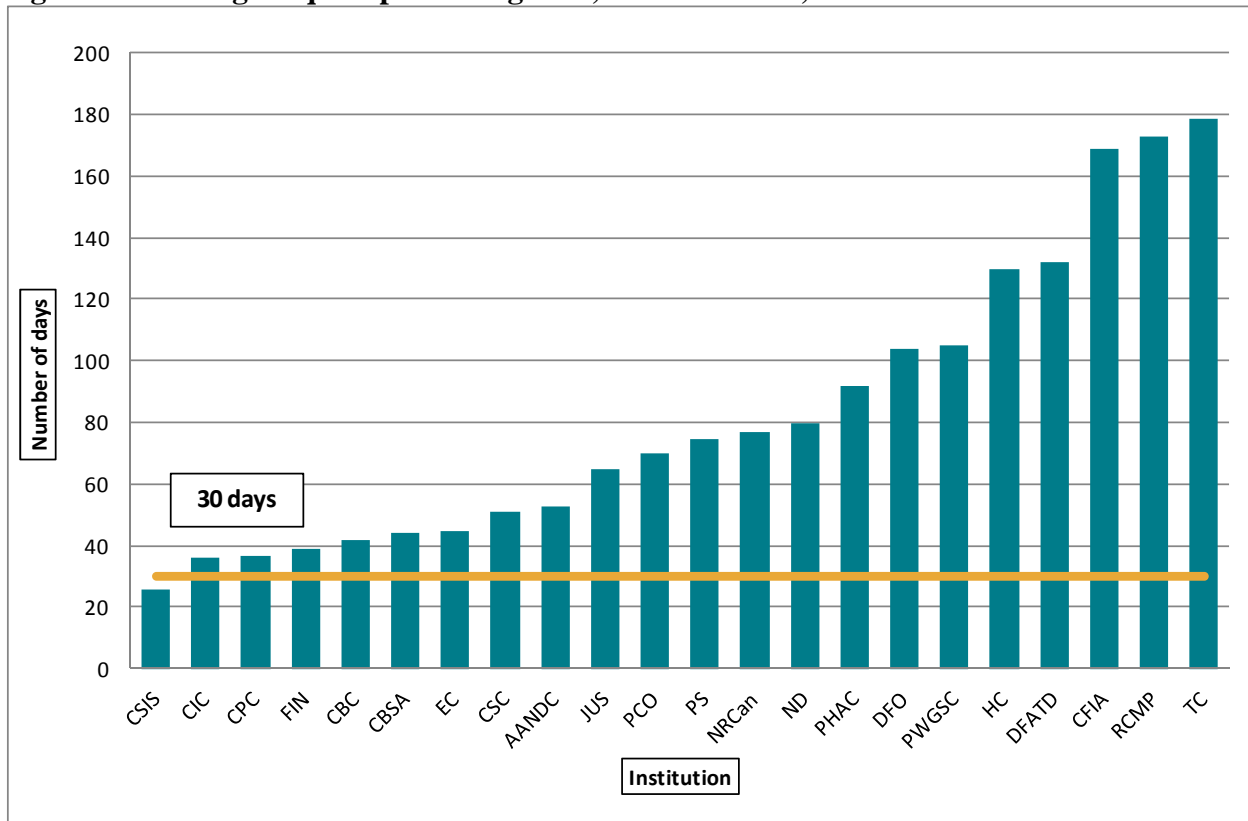
¹¹ The institutions provided the information when they replied to parliamentary written question Q-485 in June 2014. The information was not available for 2013–2014 for 5 of the 27 institutions: CRA, ESDC, IC, LAC, and TBS.

¹² This statistical method involved calculating the average number for each category and then calculating the average. Since the last category is open (more than 365 days), the calculation was performed using the lowest number possible (366 days). This is a conservative approach to calculating the average.

Figure 11 shows the average request processing time for institutions that provided the information. Only CSIS achieved an average of less than 30 days (26 days).¹³

Finally, 7 institutions took more than 100 days on average to respond to requests for access, namely: DFO (104 days), PWGSC (105 days), HC (130 days), DFATD (132 days), CFIA (169 days), RCMP (173 days) and TC (179 days).

Figure 11. Average request processing time, 22 institutions, 2013–2014



Source: Institutions’ response to parliamentary written question Q-485.

4. Number and length of extensions

Another indicator used to determine request processing time is the number and length of these extensions.¹⁴

Extended time may be claimed if there are many records to examine, other federal institutions to consult, or third party to notify. The legislator’s intent was that extensions would be “reasonable” period of time, so that requesters would still have timely access to information.

¹³ As noted in footnote 10, CSIS included informal requests for material previously released under the Act as part of their calculation. Typically, these requests take less time to process. Based on TBS’ guide, these requests should not be recorded as formal requests.

¹⁴ To determine whether the number of extensions is proportionate to the requests completed over the years, the OIC calculated the number of extensions per request completed.

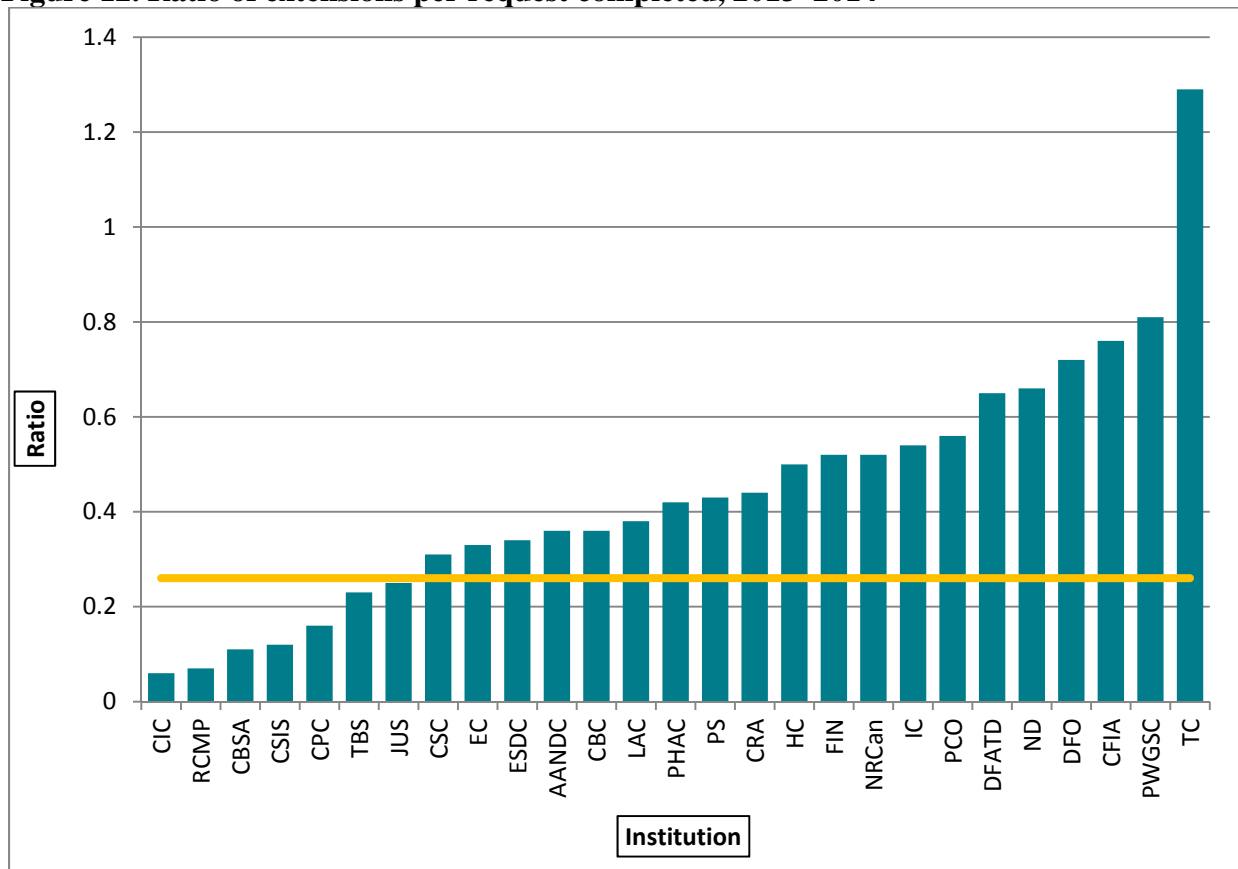
Since 2002-2003, looking at *Info Source* aggregated data, the frequency in the use of time extensions has been relatively stable. The length of extensions, however, has increased significantly across all categories.

In 2013–2014, a total of 15,066 extensions were used to complete 58,475 requests across government, a ratio of 0.26 extensions per request. This is a small increase from 2012–2013 (0.25).

Figure 12 presents this ratio for the 27 institutions reviewed. The ratio achieved by CIC, the RCMP, CBSA, CSIS, CPC, TBS, and JUS was below the ratio across government (0.06 to 0.25 ratio).

The data showed a significantly high number of extensions per request completed in 2013–2014 by TC, whose ratio (1.29) was close to 5 times the ratio across government.¹⁵

Figure 12. Ratio of extensions per request completed, 2013–2014



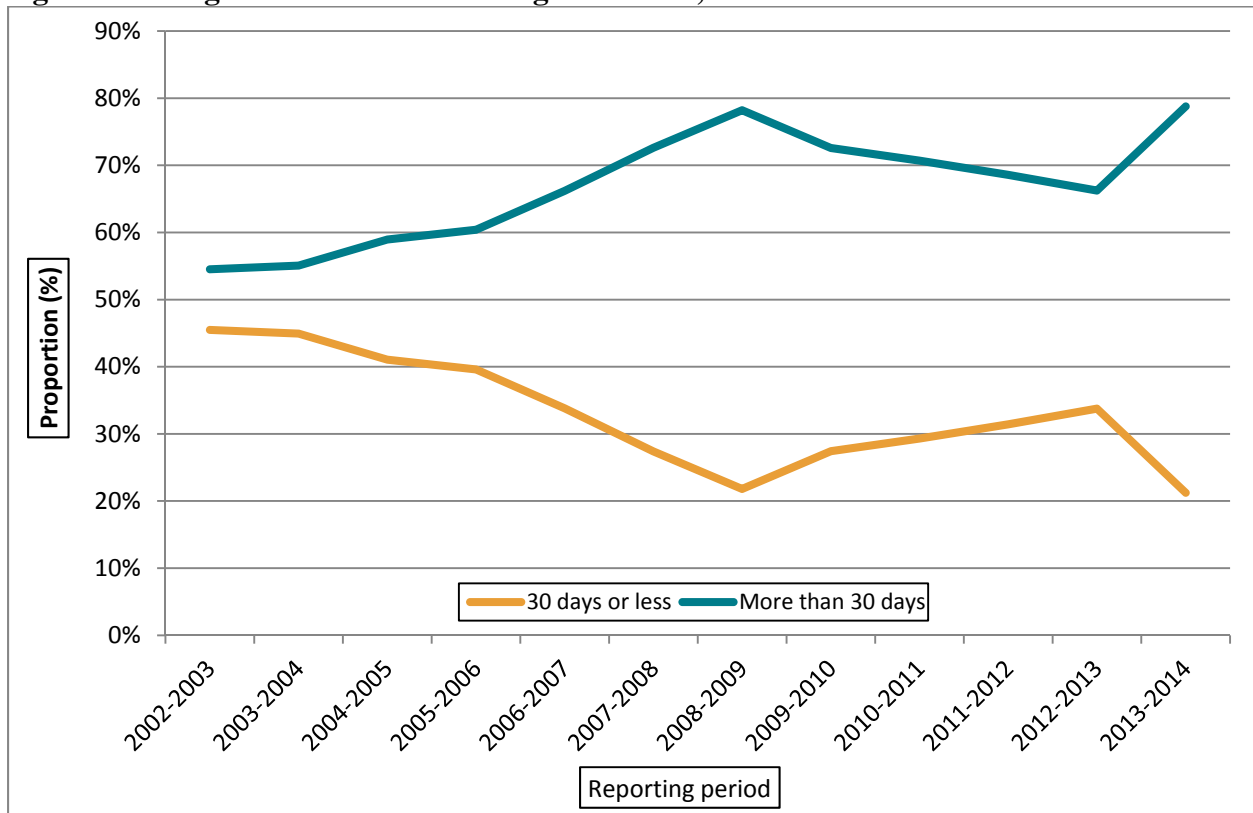
Source: Individual institutions' annual report to Parliament on the administration of the *Access to Information Act*.

¹⁵ Based on TC's annual report, the institution extended the deadlines on the initial access requests received after the Lac-Mégantic disaster to give the teams responsible for answering the requests time to focus on the investigation.

In 2013–2014, deadlines tended to be extended for longer periods of time. Figure 13 shows the length of extensions over the years.

Across government, only 21.2% of extensions were for 30 days or less in 2013–2014, the lowest percentage since 2002–2003. According to the Info Source Bulletin, the percentage of extensions for 120 days or more increased from 14% in 2012–2013 to 19% in 2013–2014.

Figure 13. Length of extensions across government, 2002–2003 to 2013–2014



Source: Info Source Bulletin Number 37B: Access to Information and Privacy Statistical Reporting, 2013–2014 (<http://www.infosource.gc.ca/bulletin/2014/b/bulletin37btb-eng.asp>).

In conclusion, statistics across the government for 2013–2014 showed federal institutions took longer to complete access requests. Analysis of performance statistics for each of the 27 institutions showed mixed results. Only some of the 27 institutions achieved higher performance ratings than those across government.

Disclosure

The disclosure of records is closely linked to the sensitivity of the information that the institution possesses as well as the restrictions contained in the Act. As noted by the Commissioner, the exemptions set out in the Act are too broad and, in many cases, prohibit institutions from disclosing information (e.g., mandatory exemptions and exclusions).

To assess the level of disclosure provided by institutions, the OIC looked at two indicators:

1. Percentage of requests for which all information was disclosed;
2. Number of exemptions and exclusions.

1. Percentage of requests for which all information was disclosed

Given that the Act has not changed significantly since its adoption, the OIC looked at the disclosure trend over a period of time to assess the level of disclosure across the government.

In 2013–2014, all information was disclosed for 15,684 requests, approximately 26.6% of completed requests across government. Although this was an improvement over the previous period (21.6%), it is significantly less than the rate in 1999–2000.

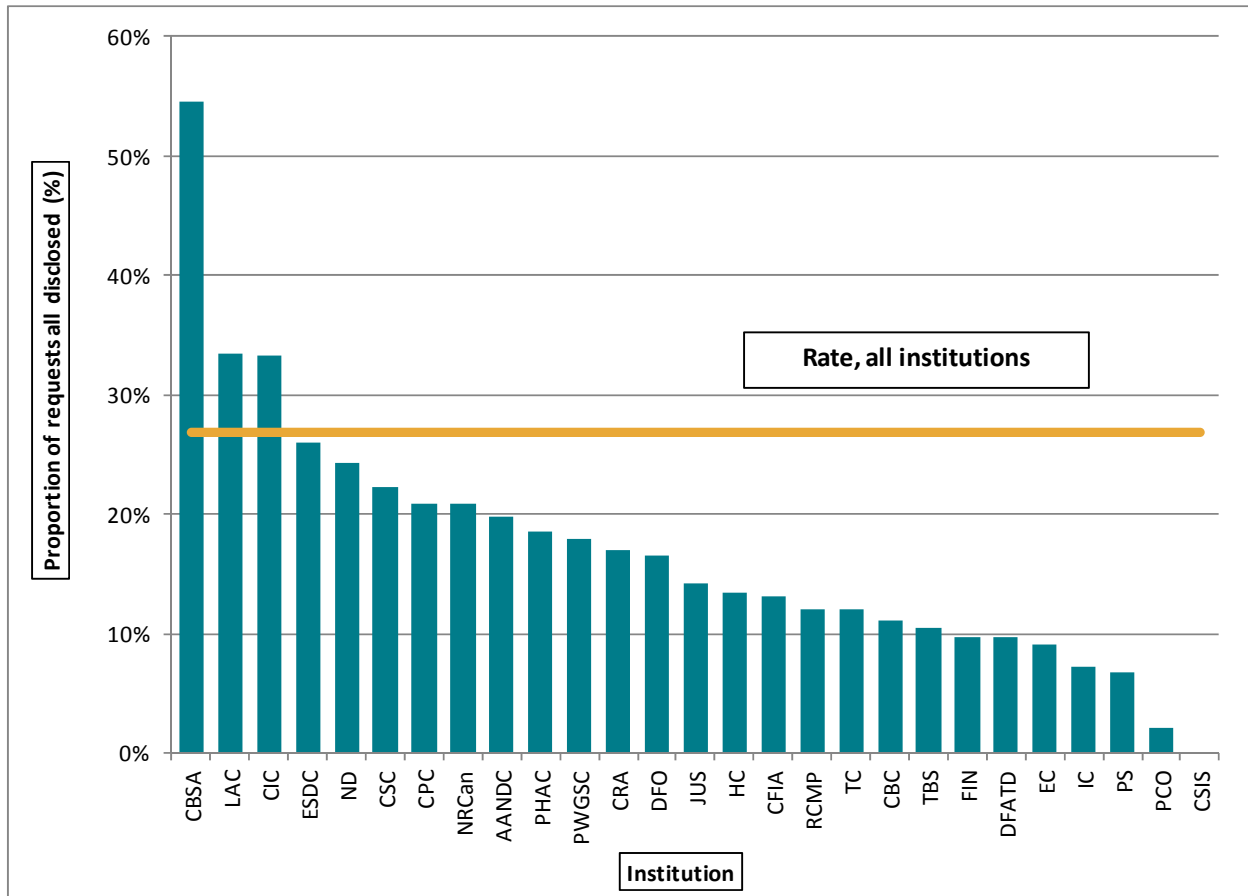
Figure 14. Percentage of requests for which all information was disclosed across government, 1999–2000 to 2013–2014



Source: Info Source Bulletins: Access to Information and Privacy Statistical Reporting.

Looking at the 27 institutions, the percentage of requests for which all information was disclosed varies significantly.

Figure 15. Percentage of requests for which all information was disclosed, 27 institutions, 2013–2014



Source: Individual institutions’ annual report to Parliament on the administration of the *Access to Information Act*.

Since 2011-2012, the number of pages disclosed in that category is available.¹⁶

Across government, approximately 20% of pages disclosed are in the “all disclosed” category (1,052,434 of the 5.3 million pages). This rate was 12% in 2011–2012 and 24.5% in 2012–2013.

2. The use of exemptions and exclusions

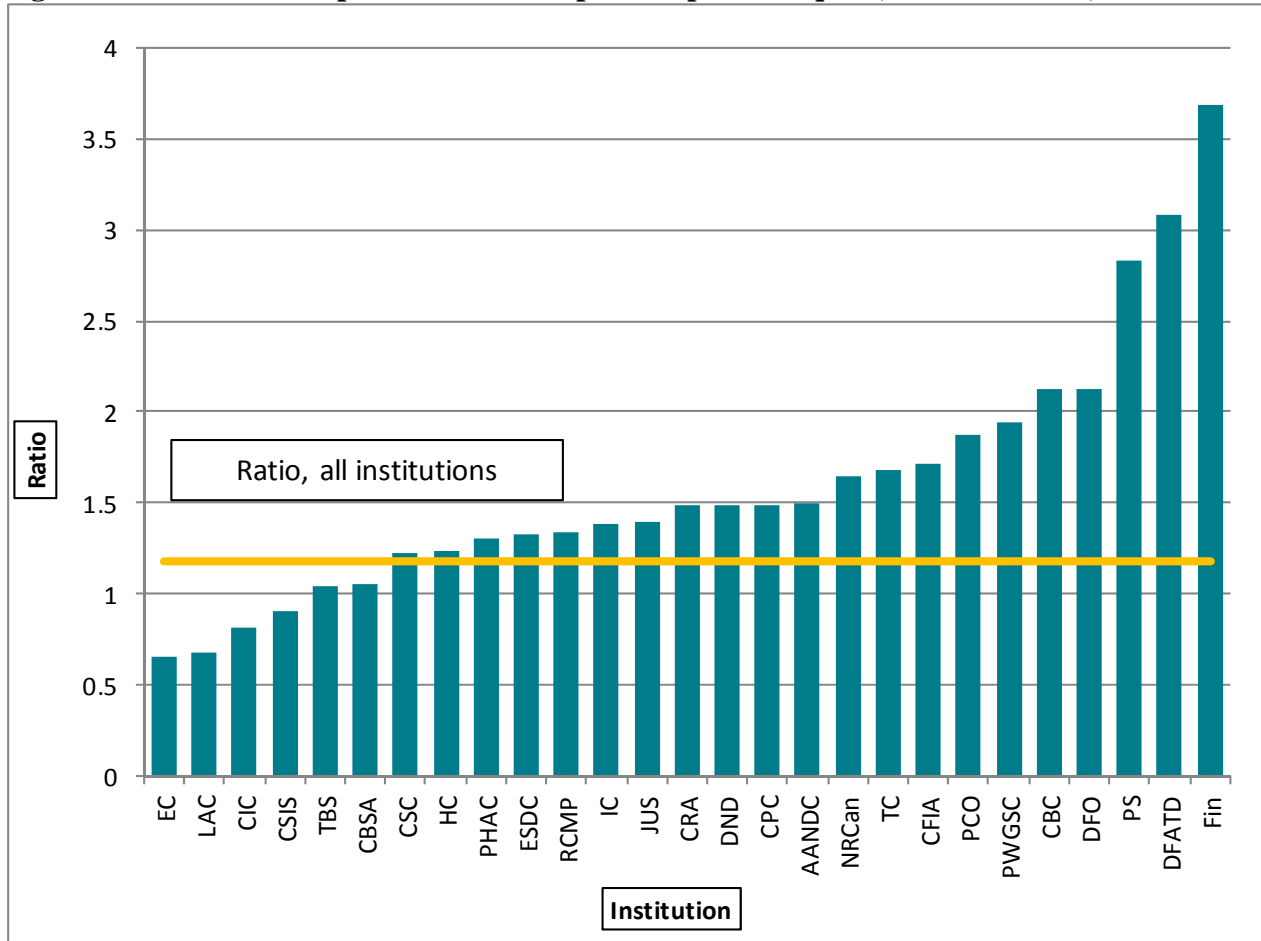
In 2013–2014, a total of 64,803 exemptions and 3,937 exclusions were applied across government, or 1.18 exemptions/exclusions per completed request. This is an increase from 2012–2013 (1.16).

Only 6 institutions achieved a ratio lower than the one achieved across government: EC (0.66), LAC (0.68), CIC (0.81), CSIS (0.91) TBS (1.04) and CBSA (1.06). In contrast, DFATD and Fin

¹⁶ It is important to note that based on available statistics, the number of pages disclosed in full under the other categories cannot be confirmed. For example, under the “disclosed in part” category.

achieved ratios greater than 3 exemptions/exclusions per completed request (3.08 and 3.69 respectively).

Figure 16. Ratio of exemptions/exclusions per completed request, 27 institutions, 2013–2014



Source: Individual institutions' annual report to Parliament on the administration of the *Access to Information Act*.

During the last decade, the 5 most commonly used exemptions were the same: Sec. 19 – Personal Information; Sec. 15 – International affairs and defence; Sec. 21 – Operations of Government; Sec. 16 – Law enforcement and investigations; Sec. 20 – Third Party Information. However, there were significant increases in the use of some specific exemptions and exclusions in the last year—these increases were proportionally larger than the increase in the number of requests completed:

- Exemptions:
 - Sec. 21 – Operations of Government (22.5%);
 - Sec. 13 – Information obtained in confidence (27.2%);
 - Sec. 14 – Federal-provincial affairs (44.3%);
- Exclusions:

- Sec. 69 – Confidences of the Queen’s Privy Council of Canada (48.9%);¹⁷
- Sec. 68¹⁸ – This Act does not apply to published materials or materials available for purchase by the public, information under the control of the CBC and Atomic Energy of Canada Limited (58.9%)

Three exemptions were used less often in 2013–2014 than in the previous year:

- Exemptions:
 - Section 22 – Testing procedures, tests and audits (-6.2%);
 - Section 17 – Safety of individuals (-4.0%);
 - Section 19 – Personal Information (-0.5%).

Note regarding the summaries of completed ATI requests

Since 2012, the Directive on the Administration of the *Access to Information Act* requires that institutions publish the summaries of completed ATI requests no later than 30 days after the end of each month. The summaries are available on the website open.canada.ca.

It is now possible to request documents (ATI packages) that were already disclosed under a previous request. This initiative enables faster processing of requests and reduces the workload of institutions.

Several institutions reported the disclosure of previously released ATI packages. For example, CSIS mentioned that it disclosed 632 packages during the period 2013–2014. However, it is impossible to verify the exact number of these packages that were disclosed across government, as this information was not mandatory in the 2013–2014 statistical report. The Commissioner will be able to better analyze this data in 2014–2015, as the institutions will be required to report on it.

¹⁷ This excludes the number of exclusions under 69.1

¹⁸ The increase comes from the use of the exclusion for published materials or materials available for purchase by the public.