



OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER
for British Columbia

Protecting privacy. Promoting transparency.

SPECIAL REPORT

A STEP BACKWARDS: REPORT CARD ON GOVERNMENT'S ACCESS TO INFORMATION RESPONSES APRIL 1, 2013 - MARCH 31, 2014

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Information and Privacy Commissioner

September 23, 2014

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Commissioner’s Message

This is the office's fourth report on the performance of ministries in meeting their obligation under the *Freedom of Information and Protection of Privacy Act* to respond to access requests within the timelines set out in the legislation.

When my predecessor issued the first timeliness report in 2009, just 71% of government’s responses were on time – the most important factor in our three timeliness benchmarks. Government’s performance improved to 90% in the following year, and in 2010/11 on-time performance increased again to 93%. It is therefore disheartening for me to issue this report, which shows the government’s on-time performance for 2013/14 has dropped to 74%. This means one-quarter of responses exceeded the 30 business day statutory limit (not including access requests properly extended in specific cases).

I believe additional attention is needed to improve government’s performance in responding to access requests. Of special note to improve transparency is my recommendation to proactively release Ministers’ and certain senior officials’ calendar information which, if acted upon, would greatly reduce the administrative burden associated with processing these requests.

This timeliness report also includes an important follow-up on situations where there are “no responsive records” available in response to general access requests. While the percentage of no responsive records responses has improved, I remain concerned with the records management practices of government related to the deletion of emails it considers transitory in nature. To address this issue, I recommend that government implement an email management system with respect to Ministers and senior government officials to capture and preserve records.

This report also analyzed the most recent data on fee estimates to determine whether these estimates are a means to deter applicants from pursuing a request. Our office’s review did not find evidence that this was the case.

I would like to acknowledge the effort of government staff in the Information Access Operations Branch of the Ministry of Technology, Innovation and Citizens' Services. In the last fiscal year, these staff closed 9,832 requests for records. While the day-to-day activities of these public servants might often be overlooked, they are crucial to facilitate openness and improved transparency. British Columbians value and appreciate their efforts.

I am grateful to my capable team, particularly Troy Taillefer, Senior Policy Analyst, and Trevor Presley, Policy Analyst for their research, analysis and contributions to this report.

September 23, 2014

ORIGINAL SIGNED BY

Elizabeth Denham
Information and Privacy Commissioner
for British Columbia

Executive Summary

This special report addresses three issues.

The first is an examination of the timeliness of government responses to access to information requests under the *Freedom of Information and Protection of Privacy Act*. Second, this report revisits the issue of “no responsive records” replies to general access to information requests. Third, this report examines government’s issuance of fee estimates in response to access requests.

With respect to **timeliness**, the legislation requires public bodies to respond within 30 business days of receiving a request, with provisions for time extensions in specific cases. To measure timeliness we use three benchmarks – percentage of requests responded to *on time*, the *average processing time* a ministry took to respond to access requests, and the *average number of business days overdue*. The first of the three measures is the most important in the scoring methodology.

Since the publication of our last timeliness report in 2011, the average on-time response across all Ministries has dropped from 93% to 74%, average processing times have increased from 22 business days to 44 business days, and the average number of business days overdue rose from 17 to 47.

Special attention is given in this report to one type of request: calendars of Ministers and senior officials. This type of request accounts for 75% of the overall increase in volume over the last two fiscal years, and 18% of all access requests submitted to government. This report recommends government routinely release calendar information on a monthly basis. This would significantly lower the administrative burden associated with processing the large number of these requests and would also be consistent with the open government initiative.

With respect to circumstances where general access to information requests result in **no responsive records**, this report provides an update on my office’s prior investigation of this issue. The most recent data indicates that the percentage of no responsive records replies across government has been reduced from 25% in 2011/12 to 19% in 2013/14.

The Office of the Premier consistently has a higher percentage of no responsive records replies than government average. In the course of reviewing the reasons for this trend we discovered that, in some instances, individuals were deleting received and sent items in bulk from email accounts. These individuals stated that they did so because they believed the records to be transitory in nature. To address this issue government-wide, this report recommends a new email

management system to document and preserve the email records of Ministers and senior government officials.

With respect to the issue of **fee estimates**, this report examines the sizable discrepancy between fee estimates provided to persons requesting government records and the total fees actually paid. Members of the public had expressed concern that government's issuance of high fee estimates may be to deter applicants from pursuing their requests. This report concludes that the discrepancy is accounted for by government's work to assist applicants to narrow broad requests to the records they are most interested in, thereby eliminating or significantly reducing the fee.

This report contains seven recommendations which, if implemented, will significantly improve government's overall performance responding to access requests and help get them back on track.

1.0 BACKGROUND

1.1 Introduction

A fundamental element of democracy is that citizens have a right to access government records. Exercising this right promotes openness, transparency and accountability of government activities. Eroding this right diminishes the ability of citizens to hold their government accountable.

The Supreme Court of Canada stated that “[a]ccess to information legislation embodies values that are fundamental to our democracy.”¹ Many jurisdictions around the world have enacted legislation, as British Columbia did in 1993 with the *Freedom of Information and Protection of Privacy Act* (“FIPPA”). FIPPA creates a statutory right to request records from public bodies, including government ministries. An essential element of this process is the right of an individual under FIPPA to receive a response from public bodies within 30 business days of making a request.

On June 2, 2014, I informed government that I would be examining three aspects of its access to information process. This special report addresses these three aspects.

The first is an examination of the timeliness of government responses to access to information requests. This is something that my office reported on annually from 2009 to 2011 and I feel it is important to revisit this issue given the dramatic decline in government’s statistical performance in the most recent fiscal year as detailed in this report. I am deeply concerned about this downturn and am committed to assist government to find solutions.

Secondly, as promised in my 2013 investigation report entitled *Increase in No Responsive Records to General Access to Information Requests*², I am revisiting the percentage of general access to information requests to government that result in no responsive records. When I last investigated this issue I was concerned with the increasing trend, particularly in the previous four fiscal years.

Thirdly, I am examining government’s issuance of fee estimates in response to an access request. Public interest in this topic arose earlier this year when statistics showed a large discrepancy between the estimated fees for responding to access to information requests and the amount of fees that government ultimately collected for those same requests.

¹ *Canada (Information Commissioner) v. Canada (Minister of National Defence)*, 2011 SCC 25 (CanLII) online at www.canlii.org/en/ca/scc/doc/2011/2011scc25/2011scc25.html at para. 79.

² See Investigation Report F13-01 at <https://www.oipc.bc.ca/investigation-reports/1510>.

1.2 Examination Process

As the Information and Privacy Commissioner for British Columbia (“Commissioner”), I have a statutory mandate to monitor the compliance of public bodies with FIPPA to ensure its purposes are achieved. The purposes, as stated in s. 2(1) of FIPPA, include making public bodies more accountable by giving the public a right of access to records. Under s. 42(1)(f) of FIPPA, I have the authority to comment on the implications for access to information of programs or activities of public bodies.

The Information Access Operations (“IAO”) branch of the Ministry of Technology, Innovation and Citizens’ Services is responsible for processing all access to information requests received by government. My office had many discussions and correspondence with IAO regarding questions that arose during this examination. We also interviewed eight IAO directors and managers about the three issues we investigated – the current state of government’s performance with respect to timeliness, no responsive records and fee estimates.

Various internal discussions took place with staff in our office who are heavily involved in the day-to-day of reviews of access to information requests, the processing of time extension requests and other matters relating to IAO. We also looked at our own statistics for such matters as time extensions with a view to determining trends.

As part of this examination, my office reviewed a statistically significant sample of files that IAO had closed over the last fiscal year using government’s Total Records and Information Management (“TRIM”) system. We analyzed 120 files in all representing more than 1% of the total requests government closed during the 2013/14 fiscal year. The purpose of the file review was to:

- identify issues with government’s processing of access requests that would help explain the recent changes in timeliness of responses;
- identify any issues relating to government’s processing of access requests that result in no responsive records; and
- identify any issues relating to government’s issuance of fee estimates.

1.3 Application of FIPPA to the Government of British Columbia

As is stated in s. 3(1), FIPPA “applies to all records in the custody or under the control of a public body”. This examination specifically deals with government ministry records that are the subject of access to information requests. The definition of “public body” in Schedule 1 of FIPPA includes a “ministry of the Government of British Columbia.” As a result, FIPPA applies.

1.4 Government’s Process for Access to Information Requests

IAO overview

IAO was formed in 2009 under the then Ministry of Labour and Citizens’ Services to centralize government’s processing of access to information requests. Although the formation of IAO centralized the processing, the head of each ministry remains responsible for compliance with FIPPA. The purpose of centralization was to provide consistent, efficient access to government records. This was, in part, government’s response to a report by my predecessor regarding the lack of timeliness of government’s responses to access requests.³

Citizens who request government records must do so in writing, either on paper or through an online form. IAO’s Intake Services receives these requests. IAO assigns each request to an analyst, who ascertains the substance of the request and identifies the appropriate program area that has, or would have, custody and control of the requested records within a ministry. The analyst requests the records from the program area and monitors legislated timelines and response requirements.

If the government program area finds records in response to the access request, the analyst reviews the records to ensure that they are responsive to the substance of the request, and that disclosure is compliant with FIPPA. The analyst works with program area staff to sever whatever information they believe is subject to exceptions to disclosure under FIPPA prior to releasing the records to the requesting party. It is the delegated head of each ministry who provides formal sign-off for each request. In the event that no records exist or no records have been located in response to the request, the analyst conveys this response to the applicant and closes the file.

³ See report entitled *Timeliness of Government’s Access to Information Responses* at <http://www.oipc.bc.ca/special-reports/1266>.

Personal request vs. general request

IAO processes two different kinds of access to information requests: personal and general. The former relates to an individual seeking his or her own personal information that he or she believes government has about them. The latter relates to such general matters as plans, strategies, program information, policy and spending decisions, as well as actions and meetings of officials.

Corporate Request Tracking System statistics

Data from the Corporate Request Tracking System (“CRTS”) was used to produce this report. CRTS is a database used by IAO to track the progress of ministries in responding to access requests under FIPPA. IAO has published statistical information on its website about all access requests and responses from the last 10 fiscal years.⁴ Government also reports these statistics on a quarterly basis on its DataBC website.

When IAO closes a file, it records various elements and uses this information to generate numerous reports. These reports can be used to track government’s performance in terms of timeliness of responses. They can also be used to track the quality of government responses in terms of such things as the percentage of access requests that result in the production of any records.

2.0 TIMELINESS OF RESPONSES

This portion of the report examines the provincial government’s compliance with the statutory timelines for access to information requests set out under FIPPA. This is an area my office has examined three times previously, beginning in 2009.

In our 2009 report, government was responding on time to 71% of access requests and our office found that “government’s overall record of compliance with its legal obligations under FIPPA [was] far from good.”⁵ In response, government committed to a centralization of its information access and privacy operations, which resulted in part in the creation of IAO.

I followed up in 2010 and 2011, finding in both instances that government’s overall performance had improved substantially, responding to 90% and 93% of access requests on time. Since 2011, my office has continued to monitor government’s timeliness, but has not issued any public reports on this topic.

⁴ See reports at http://www.gov.bc.ca/citz/iao/foi/crts_statistics/index.html.

⁵ See p. 10 of <https://www.oipc.bc.ca/special-reports/1266>.

2.1 Legislative Requirements

Section 6 of FIPPA requires public bodies to make every reasonable effort to respond to access requests without delay.

Section 7 of FIPPA requires public bodies to respond within 30 business days of receiving a request. Section 10 of FIPPA allows for an extension of time for up to 30 business days where there is a need to obtain more detail about the request, a large volume of records is requested, if there is the need to consult with a third party or another public body, or where an applicant has consented to a time extension. Section 10 also allows the time to be extended with the Commissioner’s permission if it is fair and reasonable to do so.

2.2 Methodology for Determining Timeliness

Consistent with our past two reports, our scoring of government’s timeliness is based upon a formula combining three key benchmarks. The first is the percentage of requests responded to on time. The second is the average processing time. The third is, for files that are overdue, the average number of business days overdue.

We applied this methodology to all access request files closed from April 1, 2013 to March 31, 2014. Each ministry received a score determined as follows:

- The percentage of requests responded to *on time*. “On time” means responses by government within 30 business days from the time of its receipt of a request or within the time frame that has been properly extended under FIPPA. In limited circumstances, public bodies may put requests “on hold”, for example when a public body has issued a fee estimate and is awaiting a response from an applicant. Thus, although the legislation states 30 business days as being the requirement for a response, a request can still be “on time” if it is properly extended or legitimately put “on hold”. This is the base score;
- We calculated the average time a ministry took to respond to its access requests. For every three days the *average response time* exceeded the legislated 30 business days, we deducted one point from the base score. So, if a particular ministry averaged 42 business days to respond – 12 days late – we deducted four points from the base score; and

- The second deduction relates to *average overdue days*. This is the extra time it takes a ministry to respond to access requests when the response is late. A request is not overdue until the initial 30-day period under FIPPA, in addition to any legitimate time extensions and “on hold” time, has expired. For every 10 business days overdue, we deduct a point. So, if a particular ministry averaged 20 business days overdue, we would deduct two points from the base score.

The most important factor in the scoring methodology is the percentage of responses on time, but the reasoning behind having a scoring system that is not solely dependent on this factor is that we want to fairly reflect the importance of getting responses to applicants in a timely manner. We include deductions for average processing time and business days overdue to encourage ministries to avoid letting files become excessively overdue. While there is a statutory requirement for ministries to respond to an access request within 30 business days, we believe there should also be a disincentive in our scoring system for ministries to allow requests to become excessively late once they have passed this 30-day threshold.

2.3 Results

The chart below compares government’s performance in calendar year 2008 and each of the five subsequent fiscal years based on our three key benchmarks:

Year	Number of Requests Closed	% On Time	Average Processing Time (Business Days)	Average Number of Business Days Overdue	Score
2008	5999	71%	35	37	65
2009/10	7750	90%	24	25	87
2010/11	7939	93%	22	17	91
2011/12	8212	90%	26	16	88
2012/13	9525	87% ⁶	30	22	85
2013/14	9832	74%	44	47	64

The results clearly show that government’s performance has declined substantially in the past fiscal year. By every measure except on time percentage, which was slightly lower in 2008, government’s performance is at its lowest point since our office began examining these statistics.

As we move forward in this report, we will try to uncover why this is the case and what government can do to improve its performance.

⁶ This percentage does not reflect problems government was already having with its timeliness obligations as is explained further at p. 16 of this report.

Government Performance by Ministry

Ministry scores using our benchmark criteria of percentage on time, average processing days and average number of days overdue are listed in the table below.⁷ Appendix 1 sets out ministry-by-ministry totals for each of these criteria.

To ensure consistency, we have used the same benchmarks for determining ministry timeliness as we used in my previous timeliness reports. In my most recent timeliness report in 2011, 13 of 18 ministries received a score of 85 or better and the lowest ministry score was 78. By comparison, due to the decline in government’s performance in the previous fiscal year, only six of 19 ministries have received a score of 85 or better and 11 ministries received a score lower than 78.

STATUS	MINISTRY	Score
Excellent (Score = 100) 		
Above Average (Score 91 – 99) 	Forests, Lands & Natural Resource Operations	95
	Transportation and Infrastructure	93
	Social Development and Social Innovation	93
	Agriculture	91
Average (Score = 85 – 90) 	Aboriginal Relations & Reconciliation	88
	International Trade	88
Below Average (Score <85) 	Community, Sport & Cultural Development	84
	Advanced Education	83
	Natural Gas Development	76
	Education	75
	Health	74
	Office of the Premier	72
	Technology, Innovation and Citizens’ Services	72
	Environment	71
	Finance	69
	Justice	68
	Energy and Mines	59
	Jobs, Tourism and Skills Training	57
	Children and Family Development	25

⁷ See p. 9 of this report for a thorough explanation of the scoring methodology.

Percentage of requests on time⁸

As stated earlier, the most important factor in our scoring methodology is the percentage of requests responded to on time. On average, ministries suffered a significant decrease as compared to the last fiscal year, with the average declining from 87% to 74%. At the time of my last timeliness report in 2011, government’s average was 93% on time.

The lowest on time rate this year of any of the 19 ministries is the Ministry of Children and Family Development (“MCFD”) at 52%. This is an alarmingly low statistic that reveals that for nearly half of all access requests, MCFD is taking too long to respond to its access to information requests. In fiscal year 2012/13, no ministry was below the current government average on time rate of 74%.

In fiscal year 2013/14, the five ministries with the *highest* on time rates are:

- Forests, Lands and Natural Resource Operations 97%
- Transportation and Infrastructure 97%
- Social Development and Social Innovation 94%
- Agriculture 91%
- Aboriginal Relations and Reconciliation 90%

The four ministries with the *lowest* on time rates are:

- Justice 72%
- Energy and Mines 66%
- Jobs, Tourism and Skills Training 65%
- Ministry of Children and Family Development 52%

Average processing time (business days)

Processing time starts the day after IAO receives a request and ends the day government provides the response and includes time taken for authorized extensions. Government’s average increased quite dramatically compared to the last fiscal year from 30 business days to 44.

⁸ See Appendices 1 – 3 for a summary of CRTS data for all ministries.

Average number of business days overdue

A third scoring factor is the average overdue time for a ministry to respond to an access request, when the response is late under FIPPA. Ministries have shown a significant decrease in performance based on this factor over the last fiscal year. Government’s average this fiscal year was 47 business days as compared to an average of 22 days in the previous fiscal year. At the time of my last timelines report in 2011, the average overdue request was 17 business days late.

Time extensions and “on hold” time

The following chart shows the total number of files delayed by “on hold” time and by time extensions over each year since 2008:

Percentage of Requests with “On Hold” Time and Percentage of Requests with Time Extensions Taken			
Request Type	Total # of Closed Requests	% of Requests with “On Hold” Time	% of Requests with Time Extensions Taken
General			
2008	1828	23%	28%
2009/10	2479	19%	31%
2010/11	2774	18%	26%
2011/12	3181	12%	24%
2012/13	4565	9%	22%
2013/14	5235	10%	21%
Personal			
2008	4204	7%	10%
2009/10	5271	1%	13%
2010/11	5165	0.3%	13%
2011/12	5038	0.1%	15%
2012/13	4966	0.1%	20%
2013/14	4597	0.2%	26%
Total			
2008	6032	12%	16%
2009/10	7750	7%	19%
2010/11	7939	7%	17%
2011/12	8219	5%	19%
2012/13	9531	4%	21%
2013/14	9832	5%	23%

The percentage of files “on hold” for such reasons as awaiting a response from an applicant on a fee estimate is less than half of what it was when this office issued its first timeliness report. I have no concerns on this issue at this time.

However, the percentage of files where government is receiving a time extension is at an all-time high. At least to some extent, this appears to be a coping mechanism for government staff that are under considerable strain to keep up with the ever-increasing number of access requests they are receiving.

Time extension requests from public bodies to my office are also at an all-time high and have more than doubled in the last two fiscal years, with most of these requests coming from government ministries.

The end result of time extensions, even where they are authorized under FIPPA, is an increase in the number of days until an applicant receives a response to their access to information request. The increasing number of time extensions taken by government is contributing to their lower scores due to a deduction for average processing days, and is a further indicator of the problems many ministries are facing with meeting their timeliness obligations under FIPPA. I will be monitoring government’s trend of an increasing percentage of time extensions in upcoming fiscal years.

Government Performance by Applicant Type

We also evaluated the timeliness of government responses in relation to the different types of applicant who ask for records, using the same benchmark criteria as for ministries (percentage on time, average processing days and average number of days overdue).

Score by Applicant Type		
Excellent (Score = 100) 		
Above Average (Score = 91 – 99) 		
Average (Score = 85 – 90) 		
Below Average (Score < 85) 	Business	84
	Other Governments	80
	Researcher	78
	Political Party	77
	Other Public Bodies	74
	Interest Group	72
	Law Firm	63
	Media	62
	Individual	56

While government’s score is lowest for individual and media applicants, I believe government’s overall average of 64 and “below average” rating for each applicant type is indicative of across-the-board problems rather than problems with particular applicant types.

Government’s average score last year was 85 and in my last timeliness report in 2011, government’s score was an impressive 91. The highest score this year for any applicant type is business at 84. This is still lower than the average government score in every year since 2008.

2.4 Possible Explanations for the Decrease in Timeliness Performance

Through my office’s review of the CRTS statistics and of government files along with interviews of various representatives from IAO, we found the following to be reasons for the significant decrease in government’s timeliness in responding to access to information requests.

Serious problems with timeliness existed before fiscal 2013/14

Government’s CRTS statistics regarding timeliness are based on closed access to information requests. Open files are not factored into government statistics. As a result, overdue responses do not negatively affect timeliness statistics until IAO has closed the file.

An increasing number of open files were already overdue under FIPPA in fiscal year 2012/13, although the timeliness statistics for closed files had not yet significantly dropped. According to IAO representatives, the number of overdue files peaked at about 700 in January 2014.

In January 2014, government committed to responding to many of these overdue files and allowed staff to work a considerable amount of overtime hours to make this possible. Of course, as government worked on lowering the backlog of overdue files, newer requests also became overdue. Nonetheless, IAO informs that government has been able to make some progress and has cut the backlog of overdue files in half to approximately 350. This very positive step towards reducing the backlog unfortunately also contributed, from a statistical perspective, to the significant downturn in government’s timeliness last fiscal year. This is because it is not until IAO closes a file that it counts towards government’s timeliness statistics.

Volume of requests and staffing challenges

The number of government’s closed access to information requests has risen steadily in recent years. In 2008, government closed 6032 requests. By fiscal 2010/11, this total had risen to 7939. In fiscal 2013/14, government closed 9832 requests, which is an increase of 63% from 2008 and of 24% from the time of my last report in 2011. The result of this increased volume is a significant increase in the workload for IAO and ministries in responding to access to information requests.

In looking to specific areas where the volume of requests has gone dramatically up in recent years, one area clearly stands out. From fiscal 2011/12 to fiscal 2013/14, the number of requests for the calendars of government officials has risen from 587 to 1800, with political parties making the vast majority of these requests. This is an increase of 1213 calendar requests at a time when the total increase in closed files has risen by 1620. As such, the increase in calendar requests accounts for 75% of the total increase in volume in the last two fiscal years.

IAO informs my office that due to the large volume of calendar requests, they collectively take considerable time to process and do have an impact on government’s ability to meet its timeliness obligations for all other requests. IAO also notes that it is bundling the requests for some calendars (i.e. various executive director positions within one ministry are treated as one request), so the number of calendars involved is actually somewhat higher than the number of requests processed. Given the volume of calendar requests involved, I believe that a solution to this challenge needs to be found.

It is my office’s understanding that IAO staffing levels have remained relatively consistent since centralization in 2009. This despite the fact that the number of closed access to information requests have risen approximately 27% from 7,750 to 9,832 during that time. IAO experienced staff turnover of as many as 15-20% of its staff over the past two fiscal years. At times, it was unable to immediately replace individuals who were retiring or left IAO during government’s hiring freeze. The combination of the steady rise in volume and the turnover in staffing put IAO in a position where it was nearly impossible for it to keep up with the number of requests.

IAO has recently been able to fill a number of vacant positions and is now operating at slightly above the number of staff it has had since centralization in 2009. While this is a positive step, it still leaves approximately the same number of people trying to process 27% more requests that contain, on average, significantly more pages per request than requests contained at the time of centralization. This leads me to believe that under the current information

management system, IAO requires an increase in staffing simply to maintain the level of efficiency that it had a few years ago.

One area of change in recent years has been the re-introduction of FOI coordinators within some ministries. IAO representatives say these individuals serve an extremely valuable role in assuring the timeliness of responses in that they are a dedicated position within the ministry to assist in locating records and keeping government’s response process moving along in a timely manner. It is very difficult for individuals who have other primary responsibilities to try to balance their access to information obligations with their other work.

MCFD is having serious timeliness issues

The problems discussed above have had a negative impact on government performance across ministries. However, the statistics for MCFD show that it is experiencing the most significant problems of any ministry. MCFD’s 52% on time is in sharp contrast to its 99% when my office last did a timeliness report in 2011.

MCFD accounted for 21% of all government’s closed files in the last fiscal year. Taking MCFD out of government’s statistics changes government’s overall on time percentage from 74% to 80% and the government score from 64 to 77. Even without MCFD, government’s statistics would be significantly lower than in previous years other than 2008, but there are clearly circumstances facing MCFD that need attention.

While a 26% increase in the volume of requests for MCFD since fiscal year 2010/11 is largely on par with the average government increase of 24%, it only tells part of the story. According to IAO, it is the volume of pages per request that is increasing at a significant rate with the number of pages scanned for MCFD nearly doubling from 929,000 in 2012/13 to 1.7 million in 2013/14. This has resulted in a considerable increase in the volume of work for IAO in terms of severing and for MCFD in terms of retrieving and printing documents.

MCFD informed my office that it has had staffing issues since 2012 that have resulted in a reduction to their records management team.

While turnover of staff and volume of requests have certainly been problems for both IAO and MCFD, a significant cause of MCFD’s timeliness problems appears to lie with its difficulty in retrieving records from the relatively new Integrated Case Management system (“ICM”). ICM is a technology platform used by the Ministry of Social Development and Social Innovation (“SDSI”) and MCFD to manage information and provide services to citizens accessing critical social

services, including the BC Employment and Assistance Program, the Child Care Subsidy Program and Child and Family Services.⁹

Government is rolling out ICM in four phases. Phase 1 was implemented near the end of 2011 and involved only SDSI workers. Phase 2 of ICM was implemented in April 2012 and included a roll-out to MCFD workers. Government implemented Phase 3 in March 2013 and Phase 4 is scheduled for completion by the end of 2014.

MCFD staff informed my office that when they started using ICM their ministry’s particular needs in accessing and printing records were not well provided for in the system. MCFD staff also stated that they are becoming more efficient at using ICM to respond to access to information requests, but they estimate they are still three times as slow on requests that involve ICM as they were prior to its implementation.

MCFD representatives stated that in July and August 2012, staff responding to access requests stopped using ICM because of difficulties with the system and instead focussed on other access requests, such as youth justice files, that did not involve ICM. By September 2012, government made some improvements to ICM and ministry staff resumed retrieving records for access to information requests from ICM, but faced a considerable backlog of overdue requests. According to IAO, while the backlog of overdue MCFD files was lowered last year due to government’s allowance of overtime, it is again back to near peak numbers of over 300 files.

MCFD representatives inform my office that printing documents from ICM is a very slow process. The main cause of this problem is that many MCFD documents are saved in ICM as attachments to a case file and each attachment has to be individually opened and printed. It is not uncommon for a file to have 60 or more attachments, often with attachments embedded within other attachments. This is an inefficient records management process which greatly slows the retrieval of records from ICM.

As part of our file review, my investigators observed numerous closed MCFD files that were overdue by as much as a year. Out of the 20 MCFD files that my investigators reviewed, four applicants ultimately abandoned their requests. While we do not know their individual circumstances, these people may have done so as a result of government’s response no longer being particularly relevant to their situations given the significant amount of time that had passed.

⁹ See <http://www.integratedcasemanagement.gov.bc.ca/>.

ICM is not having the same effect on timeliness for SDSI users. Timeliness statistics for government place SDSI among the best performing ministries. In speaking with government representatives, it appears that similar problems as I have discussed above exist for SDSI users of ICM, but these problems are not as impactful on timeliness because of the relatively small average size (in terms of volume of pages) of SDSI access requests as compared to MCFD. A notable difference between MCFD and SDSI with respect to ICM is that SDSI delivered more effective training to its staff on using the new system.

MCFD informs my office that it has a distinct team within the ministry to assist IAO with the processing of access requests and will look to centralize as much of the records retrieval work as possible to reduce the burden on local office staff. MCFD believes that after some staff turnover in the past two years, its access to information team will reach full complement in 2014 and it will work with IAO to refine its current system of processing access requests.

MCFD advises that Phase 4 of ICM will include a “print all” function that should significantly improve its timeliness in responding to access requests and users of ICM will also be given further training on how to correctly handle attachments within the system.

MCFD believes the above changes will enable it to close the gap between its 99% on time in fiscal year 2010/11 and the 52% on time rate this past fiscal year. My office will follow-up on MCFD’s progress in our next examination of government’s access to information process.

2.5 Recommendations to Improve Timeliness

I recognise government’s budgetary constraints; however it is essential that this be balanced with the importance that an efficient access to information process plays in citizens exercising their rights to request records from government and with government’s legal requirement to reply to requests within 30 business days. The results from the last fiscal year show that government is falling short on its obligations under FIPPA on a regular basis.

Backlog and staffing issues

Starting in fiscal year 2012/13, IAO knew it was in a position of carrying a large number of overdue access requests. However, it chose to keep its focus primarily on processing requests that were not yet overdue. While this had a positive impact on the timeliness statistics for fiscal 2012/13 because these statistics are based on closed files, it represents an unfairness to applicants who

potentially end up waiting many months or even more than a year for a response to their request.

In most instances, access delayed is indeed access denied as there is an essential element of timeliness to many requests in order to hold government to account or to receive one’s own personal information. I believe government should make the elimination of the current backlog a priority.

A crucial aspect of ensuring timeliness is IAO staffing levels. It is worth emphasizing that government’s obligation to respond to access to information requests within 30 business days is not simply something that is a target to aim for; it is the law and it is almost impossible for government to meet its obligations unless IAO is properly staffed. When considering the appropriate levels of staffing, it is important that government recognize that IAO currently deals with approximately 27% more requests than it did during its first fiscal year after centralization and that these requests, on average, involve a significantly greater volume of pages.

In addition to allowing IAO to maintain a proper complement of staff, government should also consider ways to allow IAO to better retain staff.

It is also important that government ensure that its ministries are adequately prepared to respond to access to information requests and that doing so is a clear priority for government. The hiring of an FOI coordinator for ministries where needed would greatly assist in this regard.

There are also lessons for government to learn from ministries such as the Ministry of Forests, Lands and Natural Resource Operations, the Ministry of Transportation and Infrastructure and SDSI. These ministries continue to respond to access to information requests in a timely manner while many other ministries are having difficulties. Government should examine the processes of these ministries to determine whether efficiencies can be found and applied to other ministries across government.

RECOMMENDATION 1:

Government should define and implement steps to eliminate the backlog of access to information requests and, in the forthcoming budget cycle, should give priority to providing more resources to dealing with the greatly increased volume of access requests.

Modernizing government’s information management

I have referred above to specific aspects of government’s access to information process where government could make changes to improve the timeliness of its responses. I believe that IAO staff are doing their best to respond to access requests, but government’s challenges in dealing effectively with these requests are largely systemic. In order for government to make a lasting positive change, they must adopt a modern information management framework.

Government statistics show a steady increase in access requests. In addition, the proliferation of electronic records and the ease with which these records are created has placed government in a situation where the average number of records that need to be searched for each request is growing significantly. Despite these challenges, not enough attention is paid to creating a system that allows for these records to be easily tracked through their entire lifecycle.

Interestingly, in some ways paper records were easier for government to locate in that they had to be kept in certain folders in order for government employees to find them for any purpose with a reasonable search. As such, there were usually limited areas to search once government received an access request.

Electronic records on the other hand, because of their relative mobility, can be exceedingly difficult to locate without sufficient information management measures in place. As a result, government’s commitment to openness and transparency can suffer. This not only hampers efficiency in responding to access requests, but as I noted in my recent Special Report entitled *A Failure to Archive: Recommendations to Modernize Government Information Management*,¹⁰ government also risks losing historical records that will have great significance to British Columbians in the future.

What this speaks to is the need for British Columbia to develop a modern statutory framework for information management that addresses the full life-cycle of a record, from creation and management through to final disposition and archiving. This system would have the potential to fundamentally improve government’s ability to respond to access to information requests in a manner that citizens have come to expect in today’s digital world. However, it is crucial in building such a system that government consider access to information at the front end of records management and invite appropriate stakeholders to the table that can assist government in building the correct framework that meets its own needs as well as the needs of those seeking government information.

¹⁰ See <https://www.oipc.bc.ca/special-reports/1664>.

RECOMMENDATION 2:

As recommended in my report entitled *A Failure to Archive: Recommendations to Modernize Government Information Management*, government should adopt a modern statutory framework to address the needs and realities of the digital age, recognizing the importance for government to effectively track records from their creation through to their archiving.

Government informs my office that they are currently implementing a new access to information software program that they believe will increase their productivity. Government also advises that they have recently completed an initiative that will reduce the number of administrative steps in the access to information process and are working on government-wide records management improvements that will reduce the time required to search for responsive records. I anticipate discussing these matters as well as government’s response to my recommendations in the coming months.

Calendar requests

While government cannot generally influence the number of access to information requests it receives, there is one obvious area that it can – by proactively releasing commonly requested records. Political parties routinely request calendars for various positions within government. **In fact, the increase in calendar requests account for 75% of the overall increase in access to information requests over the last two fiscal years.**

As a result, it is imperative that government develop a method to proactively release calendars. I appreciate that there would still be work to routinely release calendars, but I believe that efficiencies could be developed that would save government considerable time and resources. This is an issue that I discussed in my 2013 investigation report entitled *Evaluating the Government of British Columbia’s Open Government Initiative*.¹¹

My office understands that political parties are currently requesting calendars from various positions within ministers’ offices, deputy ministers, assistant deputy ministers, executive directors and various other positions within the Office of the Premier. A solution will require consulting with political parties who are making these requests to identify calendars of key personnel as well as the necessary information for release within them. I appreciate that government has some personal safety concerns with the proactive release of calendars. However, I am

¹¹ See <https://www.oipc.bc.ca/investigation-reports/1553> at pp. 13-15.

confident that it can address these concerns in a manner that makes the proactively released calendars meaningful for political parties and more administratively efficient for both government and political parties by reducing the need to process as many as 1800 requests per year.

RECOMMENDATION 3:

After discussion and agreement between government and the political parties currently making calendar requests, the minister responsible for FIPPA should develop a system to proactively disclose calendar information of ministers, deputy ministers, assistant deputy ministers as well as certain other staff whose calendars are routinely the subject of access to information requests. This release should, at a minimum, contain the names of participants, the subject and date of meetings and be published on a monthly basis.

MCFD’s timeliness

It is essential that MCFD take steps to ensure that it can fulfill its statutory obligations under FIPPA to respond to access to information requests. MCFD needs to take immediate steps to ensure it resolves retrieval and printing problems with ICM and should start by developing a solution to enable it to easily and efficiently print all attachments saved within an individual ICM case file.

MCFD’s problems with accessing and retrieving records from ICM demonstrate the importance of building access into a system at the design stage.¹² When government plans a new information management system, it must consider access and privacy at the earliest possible stage. This will ensure that the resulting system operates efficiently for all program delivery purposes.

RECOMMENDATION 4:

The Ministry of Children and Family Development should give attention on a priority basis to its statutory obligation under FIPPA to respond to access to information requests within legal timelines. Planned actions should include addressing elements such as printing and retrieving difficulties regarding the ICM system, staff levels related to access to information and providing effective ongoing training to ICM users.

¹² This report examines only the access to information elements of ICM and does not consider privacy implications.

RECOMMENDATION 5:

Government should ensure it builds access and privacy into any new information management system at the design stage in order to ensure the system operates from a records management perspective as well as from a program perspective.

3.0 NO RESPONSIVE RECORDS

In 2013, the Freedom of Information and Privacy Association (“FIPA”) raised with my office the issue of the manner in which they said the Government of British Columbia was responding to general access to information requests. The basis for the complaint was that government was responding to an increasing number of general access to information requests with the reply that “no responsive records” exist. This trend had become especially evident in the previous four fiscal years (2008/09 – 2011/12) when the percentage of no responsive records rose from 13% to 25%.

In response to the FIPA complaint, I initiated an investigation to determine whether, in its handling of general access to information requests, government was complying with its duty under s. 6(1) of FIPPA which states that public bodies must “make every reasonable effort to assist applicants and to respond without delay to each applicant, openly, accurately and completely.”

While I found that government was compliant with its s. 6(1) duty to assist, I did identify instances where government could respond to applicants in a more open, accurate and complete manner and made various recommendations to this end. I also noted the significant effect the high percentage of no records responses from the Office of the Premier had on government’s overall statistics for fiscal year 2011/12. I committed in my investigation to re-visit this issue and report on it publicly after the 2013/14 fiscal year.

3.1 Annual Statistics

The following table represents the total number of general requests closed and the percentage of general requests closed where government did not release records:

Fiscal Year	Requests Closed	% No Records
2002/03	1885	11%
2003/04	1567	11%
2004/05	2063	10%
2005/06	1627	14%
2006/07	2081	13%
2007/08	1855	14%
2008/09	1842	13%
2009/10	2495	18%
2010/11	2778	21%
2011/12	3182	25%
2012/13	4566	26%
2013/14	5235	19%

My office’s previous investigation examined government statistics up to and including fiscal year 2011/12. Given that my report was released to the public on March 4, 2013, the first year that I could expect to see any potential change in statistics as a result of government’s response to my investigation was in fiscal year 2013/14.

I am pleased to see that in fiscal year 2013/14, government’s percentage of general access requests that result in no records being produced has fallen substantially to 19%. This is the lowest it has been since fiscal year 2009/10. One year is not enough to show a permanent reversing of the trend that FIPA was concerned about, but it is certainly a positive step.

3.2 Possible Reasons for Improvement

Classification system

One of my recommendations in 2013 was for IAO to develop a classification system that more accurately reflects where an individual who has made the same request to multiple ministries ultimately receives the records they were

seeking, irrespective of how many ministries respond that they do not have records. IAO acted on this recommendation in creating a new disposition category reflecting these types of requests (“Records in another ministry/org”) and approximately 3% of closed general requests in fiscal 2013/14 have been classified in this manner.¹³

I appreciate that this change does not actually result in an increase in individuals receiving responsive records, but it is a more accurate reflection of government statistics where an applicant is making requests to multiple ministries in search of one set of records.

Office of the Premier

My investigation in 2013 revealed that the Office of the Premier had no responsive records for 45% of its general access to information requests in fiscal year 2011/12, with the next closest ministry having 30%. The previous fiscal year, the Office of the Premier had been at 30%. This dramatic increase was the single biggest cause of government’s overall increase from fiscal years 2010/11 to 2011/12.

I committed to monitor whether the significant impact of the Office of the Premier’s response rate on government’s overall numbers was a one-year aberration or the beginning of a trend that would require further examination.

In fiscal year 2012/13, the Office of the Premier’s no responsive records rate dropped slightly to 42%, but was still the highest of any government ministry.¹⁴ In fiscal year 2013/14, however, the drop has been more significant and now sits at 29%. This is still well above the government average of 19%, but is no longer the highest of the ministries. IAO notes that many applicants misunderstand the Office of the Premier’s mandate and this leads to a larger than average number of requests that result in no responsive records. My office’s experience is that this is indeed the case and I do accept that the Office of the Premier’s statistics in this area will be usually higher than the government average. However, I do have concerns with the Office of the Premier’s records management practices as is set out below.

¹³ See Appendix 5.

¹⁴ See Appendix 7.

3.2 Review of Office of the Premier Files

As part of my office’s review of government files, we examined 20 closed files from the Office of the Premier where no responsive records were located to determine whether this office was following appropriate processes in their search for records. We were particularly interested in gauging the progress of the Office of the Premier as follow-up to my 2013 investigation report.

Our review did raise some questions. Our review showed eight requests for calendars of government officials where applicants were told that no records were located. My office followed up on these requests to determine why no responsive records existed in these instances. We were informed by IAO and by the Office of the Premier that in each instance the individual did not keep a calendar. In one instance, the position was not currently filled within the Office of the Premier.

My investigators followed up with the Office of the Premier on this issue and asked how these individuals were able to perform their duties without the use of a calendar. The Office of the Premier stated that each of these positions were supporting roles where the individual did not attend external meetings and was focussed on the day-to-day work of the Premier or other senior-level executives. My investigators confirmed that each of the calendars in question did not relate to senior-level executives. In one instance, the Office of the Premier’s representative stated that the nature of a position had since changed to include more meetings and managerial functions and, as a result, that individual did now keep a calendar.

When considering these responses in light of government’s duty to assist applicants under s. 6(1) of FIPPA, I believe that IAO should include in its response a brief statement that the position does not keep a calendar as well as the reason why this is the case. This is something I also recommended in my 2013 investigation report and is a logical component of the duty to assist. Political parties make calendar requests at regularly scheduled intervals and this additional information could help shape future requests. This should simply be a sentence or two that explains, for instance, that a particular individual does not keep a calendar. Furthermore, regardless of the nature of the request, additional information can assist an applicant in understanding why no records exist. I do note that in some instances, IAO is including this explanation in its responses.

RECOMMENDATION 6:

Where government does not have records responsive to an access to information request, IAO should provide a brief explanation to the applicant as to why this is the case.

From our file review, my investigators also identified two responses where it did not initially seem plausible that no responsive records existed. In both instances, an applicant had asked for all emails sent or received from senior-ranking government officials on a specific day or over two days. In one instance, the request was sent only three days after the date range the applicant was seeking emails for.

The explanation offered to my investigators by the Office of the Premier and IAO is that “Everyone is encouraged to practice good records management. The response doesn’t suggest that [the individual in question] did not send or receive emails that day but rather that, at the time the request was received, no responsive records were located.” In following up with the Office of the Premier, my investigators were informed that many senior-ranking officials within the Office of the Premier do not do much substantive work by email. Instead, email is often used as a means to set up meetings or forward invitations or questions to others.

My investigators were informed that the Office of the Premier does not instruct staff to delete all sent or received emails on scheduled intervals. However, the Office of the Premier confirmed that at least some staff members regularly delete emails that they consider transitory, including their sent emails. Transitory records are those records that are not required to meet statutory obligations or to sustain administrative or operational functions.

Given the importance of the work by senior-ranking officials within the Office of the Premier, it is difficult for the average citizen to understand how any such individual could not have a number of emails over a two day span that were of importance and needed to be kept for future work. While the statistics for the Office of the Premier with respect to no responsive records are somewhat improved since my 2013 investigation, I remain concerned with the records management of that office.

3.4 Duty to Document

The position of the Office of the Premier that there are no records that are responsive to requests for all emails sent or received by senior officials on specified days is difficult for my office and for citizens to understand.

My office and other commissioners have long argued for a legislated duty for public bodies to document matters related to deliberations, actions and decisions. This requirement need not be onerous. As previously stated in my 2013 investigation report, “[t]he duty to record actions, decisions, and reasons is not merely a question of creating records for the purposes of openness and accountability, but also go to good governance, the state of information management and information holdings of government.”¹⁵

My investigators’ review of files and subsequent discussions with the Office of the Premier only highlights my concern that government has made little meaningful progress regarding a duty to document.

I acknowledge that it will not be a simple task for government to implement a comprehensive information management system. However, several jurisdictions have examined this problem and proposed practical solutions. For example, in the United States, the National Archives and Records Administration (“NARA”) has developed the Capstone approach to record keeping for its federal government.¹⁶

Capstone¹⁷ is an email management system¹⁷ designed to assist federal agencies to meet the statutory and policy requirements of the United States’ federal government.¹⁸ It is a categorization system where an employee’s email account is designated for retention or eventual destruction based on the role or position of the employee. Where an employee is in a position where he or she receives and sends emails that would likely warrant preservation based on either legal, business or archival value, then their email account would be designated as permanent. This simplifies and automates email records management for the end-user, and preserves the email in accounts of senior employees and decision-makers for access to information requests, discovery of documents in the court process and other legal obligations.

¹⁵ Supra note 2 at p. 21.

¹⁶ See <http://www.archives.gov/records-mgmt/bulletins/2013/2013-02.html>.

¹⁷ NARA Bulletin 2013-02, Guidance on a New Approach to Managing Email Records, August 29, 2013, available at <http://www.archives.gov/records-mgmt/bulletins/2013/2013-02.html>

¹⁸ Presidential Memorandum on Managing Government Records, November 28, 2011; and OMB/NARA M-12-18 Managing Government Records Directive, August 24, 2012.

Such a policy could also allow the employee to delete transitory or personal email from their accounts. While it is appropriate for these records to be routinely deleted, I have found in previous investigations that government has been too liberal in its determination of what constitutes a transitory record.¹⁹ By taking a role-based approach to email retention, Capstone prevents retention decisions being made based solely on the medium of communication, such as email; rather they are made based on whether the communication is a record of action or decision-making.

Using the Capstone approach, a government ministry can designate certain officials or employees whose email accounts it will save automatically. The contents of these email accounts would be saved on a regular basis so they could later be searched for records responsive to any access to information request. This saves the individual user the time required to go through their email and determine which records need to be retained and which should be deleted.

In the absence of modern records management legislation in British Columbia, this type of system would allow government to easily implement a policy to preserve records that document the decisions and actions of key public servants and political staff. This would serve to build public trust and could be implemented without great expense or the need to overhaul government’s current records management system.

RECOMMENDATION 7:

Government should implement the Capstone or a similar email management system with respect to senior government officials to document its key decisions. This system should also be adopted by the Office of the Premier and Ministerial offices.

¹⁹ See Investigation Report F13-01 at <https://www.oipc.bc.ca/investigation-reports/1510>.

4.0 FEE ESTIMATES

In response to an access to information request from earlier this year, government released statistics related to its issuance of fee estimates and the total amount of fees actually paid for requests since 2009.²⁰ This gave rise to public concern regarding the sizable discrepancy between these numbers and the potential that government was using large fee estimates as a means to deter applicants from pursuing a request. As a result, I have included an analysis of this issue in this report.

4.1 Annual Statistics

The following table shows in each of the last five fiscal years, the total number of fee estimates issued, the total amount of these fee estimates, the total amount of fees paid and the percentage of fees paid versus estimated:

Year	Number of Fee Estimates	Total Fees Estimated	Total Fees Paid	% Paid vs. Estimated
2009/10	357	\$981,390.56	\$52,965.00	5%
2010/11	415	\$406,639.68	\$51,706.76	13%
2011/12	328	\$335,635.41	\$29,846.07	9%
2012/13	410	\$549,258.55	\$57,935.05	11%
2013/14	385	\$484,747.50	\$65,467.57	14%
Total last five years	1895	\$2,757,721.70	\$257,920.45	9%

The overall average over the past five fiscal years shows that government ultimately collects 9% of the money of its initial fee estimates. While this table shows a large discrepancy between government’s initial fee estimates and the actual amount of fees that government ultimately collects, we needed more information to determine whether this is actually a legitimate cause for concern.

4.2 Review of Government Files

My office examined 25 files where there was a fee estimate to determine whether there was any indication that government is using large fee estimates as a means to deter applicants from pursuing a request.

²⁰ See copy of request and government response at <http://www.openinfo.gov.bc.ca/ibc/search/detail.page?config=ibc&P110=recorduid:5199670&title=FOI%20Request%20-%20CTZ-2014-00032>.

My office's review did not find this to be the case. Many of the access requests my investigators reviewed were very broad in scope. Our review of closed files showed that government appears to be doing a reasonable job in taking an initial fee estimate for these requests and assisting applicants in the narrowing of their request to a more manageable scope in order to reduce or eliminate any applicable fees while still receiving the records they are most interested in.

There was no indication from my office's review that government is making unreasonably large fee estimates in an effort to deter applicants.

5.0 SUMMARY OF RECOMMENDATIONS

RECOMMENDATION 1

Government should define and implement steps to eliminate the backlog of access to information requests and, in the forthcoming budget cycle, should give priority to providing more resources to dealing with the greatly increased volume of access requests.

RECOMMENDATION 2

As recommended in my report entitled *A Failure to Archive: Recommendations to Modernize Government Information Management*, government should adopt a modern statutory framework to address the needs and realities of the digital age, recognizing the importance for government to effectively track records from their creation through to their archiving.

RECOMMENDATION 3

After discussion and agreement between government and the political parties currently making calendar requests, the minister responsible for FIPPA should develop a system to proactively disclose calendar information of ministers, deputy ministers, assistant deputy ministers as well as certain other staff whose calendars are routinely the subject of access to information requests. This release should, at a minimum, contain the names of participants, the subject and date of meetings and be published on a monthly basis.

RECOMMENDATION 4

The Ministry of Children and Family Development should give attention on a priority basis to its statutory obligation under FIPPA to respond to access to information requests within legal timelines. Planned actions should include addressing elements such as printing and retrieving difficulties regarding the ICM system, staff levels related to access to information and providing effective ongoing training to ICM users.

RECOMMENDATION 5

Government should ensure it builds access and privacy into any new information management system at the design stage in order to ensure the system operates from a records management perspective as well as from a program perspective.

RECOMMENDATION 6

Where government does not have records responsive to an access to information request, IAO should provide a brief explanation to the applicant as to why this is the case.

RECOMMENDATION 7

Government should implement the Capstone or a similar email management system with respect to senior government officials to document its key decisions. This system should also be adopted by the Office of the Premier and Ministerial offices.

6.0 CONCLUSION

I am deeply concerned with government’s decrease in performance with respect to the timeliness of its responses to access requests. While I am somewhat encouraged that government is taking steps to address the backlog of overdue files, in my view it needs to take further action to completely eliminate the backlog and to create a permanent solution.

Government should make meeting its legislated timeliness obligations a priority that it will meet. Dealing with the increase in the volume of requests by reviewing staffing levels in the forthcoming budget cycle would be a major step in meeting these legal obligations.

Government should also take steps to proactively disclose high-volume requests such as calendars. Nearly 20% of all requests are for calendars of government officials. These requests are repetitive in nature and target particular positions within government. I believe it is in government’s own interest to come up with an efficient method of releasing this information without the need for an access request by dealing directly with political party representatives to seek a resolution.

The problems that MCFD are facing also need attention. The fact that nearly half of all requests that were closed by MCFD in the last fiscal year were in violation of the timeliness requirements under FIPPA is not acceptable. MCFD needs to work to rectify this situation.

For long-term government-wide success in meeting its statutory obligations under FIPPA, government needs to adopt a new framework for information management to address the needs and realities of the digital records age. The current model is not sufficiently effective for government ministries to identify and locate records that are potentially responsive to access to information requests. Government also risks losing records that will have historical significance to British Columbians. A new approach would allow government to more easily track records from their creation through to archiving and should greatly improve government’s ability to respond to access requests in a timely manner.

With respect to quality of responses, I found that government’s performance has improved statistically since I last examined the issue of no responsive records in 2013. Since that time, we have seen a decrease across government from 25% to 19% of access requests not receiving any records. I will continue to monitor this issue as I am somewhat concerned that while statistics have improved, government practices do not appear to have changed significantly.

The Office of the Premier's lack of responsive records on broad requests to senior officials supports the need for government to enact a legislated duty to document key decisions. A legislated duty to document is crucial in terms of accountability and good governance as well as the trust of the public. As a step towards this legislated duty, government could implement an email management system that preserves the email of senior government officials so that it preserves records responsive to future access to information requests.

I did not find evidence that government is using fee estimates as a means of deterring applicants from pursuing access to information requests. Instead, my office's review of files indicated that where government's initial fee estimate is high due to a broad request, it is working with applicants to narrow requests to areas of particular interest. I am satisfied with government's efforts in this regard.

I am committed to re-visiting government's performance in responding to access to information requests once statistics are available for the current fiscal year and will consider whether a public report is needed at that time. I realise it will take slightly longer for government to completely solve the problems it currently faces in this area, but it is essential for the sake of facilitating the rights of all British Columbians under FIPPA that they take immediate steps to make the necessary changes and create a new model for electronic records management.

We live in a time where searches for information on the internet are measured in fractions of a second. While government has to ensure it properly severs records before releasing them, our citizens should not have to accept that a typical access to information request to government will take months, or in some cases years, until they receive a response.

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**Appendix 1: All Ministries – CRTS Data
April 1, 2013 – March 31, 2014**

Public Body	Number of Requests Closed	% On Time	Average Processing Time (business days)	Average # Business Days Overdue	Score
Aboriginal Relations & Reconciliation	108	90%	33	7	88
Advanced Education	163	87%	34	32	83
Agriculture	152	91%	26	5	91
Children & Family Development	2048	52%	85	87	25
Community, Sport & Cultural Development	146	89%	39	19	84
Education	165	82%	41	30	75
Energy & Mines	260	66%	45	23	59
Environment	423	73%	34	13	71
Finance	626	73%	35	26	69
Forests, Lands & Natural Resource Operations	415	97%	34	13	95
Health	307	82%	44	26	74
Justice	2073	72%	34	26	68
Jobs, Tourism & Skills Training	299	65%	47	26	57
International Trade	102	89%	28	6	88
Natural Gas Development	183	78%	31	20	76
Office of the Premier	611	73%	29	11	72
Social Development and Social Innovation	980	94%	20	15	93
Technology, Innovation & Citizens' Services	423	75%	32	19	72
Transportation & Infrastructure	348	97%	28	11	93
All Ministries Total	9832	74%	44	47	64

**Appendix 2: All Ministries – Closed Files and % On Time
April 1, 2013 – March 31, 2014**

Public Body	# of closed requests	% on time
Forests, Lands & Natural Resource Operations	415	97%
Transportation and Infrastructure	348	97%
Social Development and Social Innovation	980	94%
Agriculture	152	91%
Aboriginal Relations & Reconciliation	108	90%
Community, Sport & Cultural Development	146	89%
International Trade	102	89%
Advanced Education	163	87%
Education	165	82%
Health	307	82%
Natural Gas Development	183	78%
Technology, Innovation and Citizens’ Services	423	75%
All Ministries Total	9832	74%
Environment	423	73%
Finance	626	73%
Office of the Premier	611	73%
Justice	2073	72%
Energy & Mines	260	66%
Jobs, Tourism and Skills Training	299	65%
Children & Family Development	2048	52%

**Appendix 3 – All Ministries – Comparison between
Fiscal Years 2012/13 & 2013/14**

Public Body	Number of Requests Closed		% On Time		Average Processing Time (business days)		Average # Business Days Overdue	
	2012/13	2013/14	2012/13	2013/14	2012/13	2013/14	2012/13	2013/14
Aboriginal Relations & Reconciliation	107	108	97%	90%	26	33	9	7
Advanced Education	131	163	93%	87%	36	34	23	32
Agriculture	99	152	96%	91%	32	26	14	5
Children & Family Development	1479	2048	85%	52%	43	85	36	87
Community, Sport & Cultural Development	125	146	90%	89%	34	39	23	19
Education	154	165	90%	82%	32	41	10	30
Energy & Mines	392	260	78%	66%	35	45	14	23
Environment	355	423	92%	73%	31	34	7	13
Finance	577	626	76%	73%	32	35	13	26
Forests, Lands & Natural Resource Operations	356	415	99%	97%	32	34	7	13
Health	234	307	86%	82%	38	44	13	26
International Trade		102		89%		28		6
Jobs, Tourism and Skills Training	224	299	79%	65%	40	47	25	26
Justice	2610	2074	86%	72%	24	34	22	26
Natural Gas Development		182		77%		31		20
Office of the Premier	577	611	92%	73%	25	29	9	11
Social Development and Social Innovation	1273	980	92%	94%	20	20	24	15
Technology, Innovation and Citizens’ Services	460	423	83%	75%	31	32	19	19
Transportation & Infrastructure	372	348	95%	97%	27	28	12	11
All Ministries Total	9525	9832	87%	74%	30	44	22	47

**Appendix 4: Score Breakdown by Applicant Type
for Fiscal Year 2013/14**

Applicant Type	Number of Requests Closed	% On Time	Average Processing Time (business days)	Average Number of Business Days Overdue	Score
Business	249	88%	33	30	84
Individual	3730	70%	52	64	56
Interest Group	224	79%	41	30	72
Law Firm	1853	75%	46	63	63
Media	1216	68%	39	25	62
Other Governments	9	89%	49	29	80
Other Public Bodies	34	85%	41	76	74
Political Party	2475	79%	32	13	77
Researcher	42	81%	35	10	78
Total	9832	74%	44	47	64

**Appendix 5: Outcome of Access Requests:
Fiscal Years 2012/13 – 2013/14 Comparison**

Outcome	2012/13		2013/14	
	Number of closed requests	Percentage	Number of closed requests	Percentage
Abandoned	568	6.0%	713	7.3%
Access Denied	230	2.4%	209	2.1%
Access Denied – Section 20	13	0.1%	21	0.2%
Cancelled	45	0.5%	48	0.5%
Full Disclosure	1393	14.6%	1267	12.9%
No Resp. Records Exist/Located	2369	24.9%	1458	14.8%
Outside Scope of Act	56	0.6%	40	0.4%
Partial Disclosure	4209	44.2%	5319	54.1%
Records in another ministry/org			175	1.8%
Routinely Releasable	54	0.6%	61	0.6%
Transferred	228	2.4%	141	1.4%
Undetermined	12	0.1%	4	0.04%
Withdrawn	347	3.6%	376	3.8%
TOTAL	9524		9832	

Appendix 6: Individual Ministry Compliance Reports

Ministry of Aboriginal Relations & Reconciliation				
				Average 88
	Number of Closed Requests	% On Time	Average Processing Time (business days)	Average Number of Business Days Overdue
All Requests	108	90%	33	7
Personal	2	100%	20	0
General	106	90%	33	7

Breakdown by Applicant Type			
	Number of Closed Requests	% On Time	Average Number of Business Days Overdue
Business	2	100%	0
Individual	11	100%	0
Interest Group	1	100%	0
Law Firm	3	67%	10
Media	12	67%	8
Political Party	76	92%	5
Researcher	3	100%	0

Ministry of Advanced Education				
				Below Average 83
	Number of Closed Requests	% On Time	Average Processing Time (business days)	Average Number of Business Days Overdue
All Requests	163	87%	34	32
Personal	7	100%	32	0
General	156	87%	34	32

Breakdown by Applicant Type			
	Number of Closed Requests	% On Time	Average Number of Business Days Overdue
Individual	32	91%	11
Interest Group	3	33%	108
Media	32	66%	32
Political Party	96	95%	15

Ministry of Agriculture		Above Average 91		
	Number of Closed Requests	% On Time	Average Processing Time (business days)	Average Number of Business Days Overdue
All Requests	152	91%	26	5
Personal	0	N/A	0	0
General	152	91%	26	5

Breakdown by Applicant Type			
	Number of Closed Requests	% On Time	Average Number of Business Days Overdue
Business	10	80%	4
Individual	17	94%	14
Interest Group	2	100%	0
Law Firm	3	100%	0
Media	26	81%	6
Political Party	92	96%	2
Researcher	2	50%	2

Ministry of Children & Family Development				
				Below Average 25
	Number of Closed Requests	% On Time	Average Processing Time (business days)	Average Number of Business Days Overdue
All Requests	2048	52%	85	87
Personal	1861	51%	90	92
General	187	67%	34	16

Breakdown by Applicant Type			
	Number of Closed Requests	% On Time	Average Number of Business Days Overdue
Business	4	100%	0
Individual	1414	54%	93
Interest Group	8	50%	92
Law Firm	459	43%	87
Media	59	71%	12
Other Public Body	3	67%	175
Political Party	101	60%	18

Ministry of Community, Sport & Cultural Development				
				Below Average 84
	Number of Closed Requests	% On Time	Average Processing Time (business days)	Average Number of Business Days Overdue
All Requests	146	89%	39	19
Personal	2	100%	20	0
General	144	88%	39	19

Breakdown by Applicant Type			
	Number of Closed Requests	% On Time	Average Number of Business Days Overdue
Individual	15	93%	139
Interest Group	2	50%	1
Law Firm	3	67%	45
Media	31	81%	16
Other Public Body	2	100%	0
Political Party	92	92%	3
Researcher	1	100%	0

Ministry of Education				
				Below Average 75
	Number of Closed Requests	% On Time	Average Processing Time (business days)	Average Number of Business Days Overdue
All Requests	165	82%	41	30
Personal	14	100%	25	0
General	151	80%	42	30

Breakdown by Applicant Type			
	Number of Closed Requests	% On Time	Average Number of Business Days Overdue
Business	4	100%	0
Individual	29	93%	46
Interest Group	8	75%	5
Media	37	65%	41
Other Public Body	2	50%	80
Political Party	84	86%	17
Researcher	1	100%	0

Ministry of Energy & Mines				
				Below Average 59
	Number of Closed Requests	% On Time	Average Processing Time (business days)	Average Number of Business Days Overdue
All Requests	260	66%	45	23
Personal	3	100%	39	0
General	257	65%	45	23

Breakdown by Applicant Type			
	Number of Closed Requests	% On Time	Average Number of Business Days Overdue
Business	15	80%	32
Individual	44	86%	35
Interest Group	9	67%	6
Law Firm	15	53%	34
Media	67	51%	33
Other Government	1	100%	0
Other Public Body	2	100%	0
Political Party	104	65%	11
Researcher	3	67%	17

Ministry of Environment				
				Below Average 71
	Number of Closed Requests	% On Time	Average Processing Time (business days)	Average Number of Business Days Overdue
All Requests	423	73%	34	13
Personal	5	20%	51	11
General	418	74%	34	13

Breakdown by Applicant Type			
	Number of Closed Requests	% On Time	Average Number of Business Days Overdue
Business	42	86%	25
Individual	82	76%	15
Interest Group	31	81%	9
Law Firm	41	61%	19
Media	65	65%	11
Other Governments	1	100%	0
Other Public Body	1	100%	0
Political Party	155	73%	11
Researcher	5	80%	1

Ministry of Finance				
				Below Average 69
	Number of Closed Requests	% On Time	Average Processing Time (business days)	Average Number of Business Days Overdue
All Requests	626	73%	35	26
Personal	165	84%	37	30
General	461	69%	34	26

Breakdown by Applicant Type			
	Number of Closed Requests	% On Time	Average Number of Business Days Overdue
Business	5	100%	0
Individual	115	74%	33
Interest Group	21	67%	36
Law Firm	112	83%	17
Media	165	65%	25
Other Public Body	4	100%	0
Political Party	204	73%	26

Ministry of Forests, Lands & Natural Resource Operations		Above Average 95		
	Number of Closed Requests	% On Time	Average Processing Time (business days)	Average Number of Business Days Overdue
All Requests	415	97%	34	13
Personal	5	100%	54	0
General	410	97%	33	13

Breakdown by Applicant Type			
	Number of Closed Requests	% On Time	Average Number of Business Days Overdue
Business	47	100%	0
Individual	101	98%	25
Interest Group	44	98%	6
Law Firm	43	95%	15
Media	59	92%	12
Other Governments	2	100%	0
Other Public Body	7	100%	0
Political Party	108	97%	7
Researcher	4	100%	0

Ministry of Health				Below Average 74
	Number of Closed Requests	% On Time	Average Processing Time (business days)	Average Number of Business Days Overdue
All Requests	307	82%	44	26
Personal	27	100%	27	0
General	280	81%	45	26

Breakdown by Applicant Type			
	Number of Closed Requests	% On Time	Average Number of Business Days Overdue
Business	8	63%	48
Individual	97	90%	13
Interest Group	22	82%	36
Law Firm	9	100%	0
Media	56	70%	39
Political Party	110	83%	17
Researcher	5	80%	19

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Ministry of Jobs, Tourism and Skills Training			Below Average 57	
	Number of Closed Requests	% On Time	Average Processing Time (business days)	Average Number of Business Days Overdue
All Requests	299	65%	47	26
Personal	39	82%	33	35
General	260	62%	49	25

Breakdown by Applicant Type			
	Number of Closed Requests	% On Time	Average Number of Business Days Overdue
Business	16	81%	7
Individual	32	84%	63
Interest Group	8	50%	34
Law Firm	23	70%	31
Media	78	63%	49
Political Party	142	60%	10

Ministry of Justice				
				Below Average 68
	Number of Closed Requests	% On Time	Average Processing Time (business days)	Average Number of Business Days Overdue
All Requests	2073	72%	34	26
Personal	1596	71%	34	26
General	477	75%	35	24

Breakdown by Applicant Type			
	Number of Closed Requests	% On Time	Average Number of Business Days Overdue
Business	45	82%	41
Individual	1185	70%	24
Interest Group	24	75%	18
Law Firm	571	76%	32
Media	123	58%	23
Other Governments	2	50%	29
Other Public Body	11	73%	41
Political Party	111	73%	21
Researcher	1	100%	0

Ministry of International Trade				Average 88
	Number of Closed Requests	% On Time	Average Processing Time (business days)	Average Number of Business Days Overdue
All Requests	102	89%	28	6
Personal	0	n/a	0	0
General	102	89%	28	6

Breakdown by Applicant Type			
	Number of Closed Requests	% On Time	Average Number of Business Days Overdue
Individual	3	100%	0
Interest Group	2	100%	0
Media	21	95%	15
Political Party	76	87%	5

Ministry of Natural Gas Development				
				Below Average 76
	Number of Closed Requests	% On Time	Average Processing Time (business days)	Average Number of Business Days Overdue
All Requests	183	78%	31	20
Personal	3	100%	19	0
General	180	77%	31	20

Breakdown by Applicant Type			
	Number of Closed Requests	% On Time	Average Number of Business Days Overdue
Individual	35	86%	9
Interest Group	6	50%	22
Law Firm	3	100%	0
Media	29	52%	31
Political Party	109	83%	15
Researcher	1	100%	0

Office of the Premier				
				Below Average 72
	Number of Closed Requests	% On Time	Average Processing Time (business days)	Average Number of Business Days Overdue
All Requests	611	73%	29	11
Personal	5	40%	40	6
General	606	73%	29	11

Breakdown by Applicant Type			
	Number of Closed Requests	% On Time	Average Number of Business Days Overdue
Individual	48	71%	6
Interest Group	6	50%	6
Law Firm	3	67%	28
Media	138	62%	17
Political Party	410	78%	8
Researcher	6	50%	11

Ministry of Social Development and Social Innovation				
				Above Average 93
	Number of Closed Requests	% On Time	Average Processing Time (business days)	Average Number of Business Days Overdue
All Requests	980	94%	20	15
Personal	856	98%	19	25
General	124	71%	29	10

Breakdown by Applicant Type			
	Number of Closed Requests	% On Time	Average Number of Business Days Overdue
Business	6	100%	0
Individual	356	97%	14
Interest Group	5	60%	17
Law Firm	511	98%	32
Media	15	60%	12
Other Governments	1	100%	0
Other Public Body	2	100%	0
Political Party	84	67%	9

Ministry of Technology, Innovation and Citizens’ Services				
				Below Average 72
	Number of Closed Requests	% On Time	Average Processing Time (business days)	Average Number of Business Days Overdue
All Requests	423	75%	32	19
Personal	3	100%	23	0
General	420	75%	33	19

Breakdown by Applicant Type			
	Number of Closed Requests	% On Time	Average Number of Business Days Overdue
Business	12	75%	40
Individual	34	82%	27
Interest Group	7	100%	0
Law Firm	8	75%	221
Media	136	70%	21
Political Party	223	77%	9
Researcher	3	67%	4

Ministry of Transportation and Infrastructure				
				Above Average 93
	Number of Closed Requests	% On Time	Average Processing Time (business days)	Average Number of Business Days Overdue
All Requests	348	97%	28	11
Personal	4	100%	24	0
General	344	97%	28	11

Breakdown by Applicant Type			
	Number of Closed Requests	% On Time	Average Number of Business Days Overdue
Business	33	97%	12
Individual	71	97%	8
Interest Group	15	100%	0
Law Firm	54	98%	28
Media	66	98%	12
Other Governments	2	100%	0
Other Public Body	1	100%	0
Political Party	99	95%	9
Researcher	7	100%	0

Appendix 7: % No Responsive Records by Ministry

Ministry	2011/12 Closed Files	% No Responsive	2012/13 Closed Files	% No Responsive	2013/14 Closed Files	% No Responsive
Aboriginal Relations & Reconciliation	66	17%	106	29%	106	19%
Advanced Education	70	12%	114	18%	156	22%
Agriculture	54	15%	98	17%	152	18%
Children & Family Development	102	8%	116	19%	187	10%
Community, Sport & Cultural Development	82	14%	124	16%	144	20%
Education	80	15%	143	19%	151	15%
Energy & Mines	174	9%	377	26%	257	14%
Environment	259	14%	353	32%	418	20%
Finance	234	25%	408	30%	461	24%
Forests, Lands & Natural Resource Operations	276	7%	349	23%	410	15%
Health	190	23%	205	20%	280	12%
International Trade	n/a	n/a	n/a	n/a	102	17%
Jobs, Tourism & Skills Training*	127	31%	209	29%	260	12%
Justice	457	31%	449	18%	477	14%
Natural Gas Development	n/a	n/a	n/a	n/a	180	32%
Office of the Premier	373	45%	574	42%	606	29%
Social Development and Social Innovation*	72	26%	123	23%	124	16%
Technology, Innovation & Citizens’ Services*	296	22%	451	25%	420	23%
Transportation & Infrastructure	270	19%	366	18%	344	17%
Total	3182	25%	4565	26%	5235	19%

Appendix 8: % No Responsive Records by Applicant Type

Applicant Type	2011/12 Closed Files	% No Responsive	2012/13 Closed Files	% No Responsive	2013/14 Closed Files	% No Responsive
Business	201	27%	281	30%	228	14%
Individual	704	22%	752	22%	772	23%
Interest Group	155	18%	217	18%	208	8%
Law Firm	268	16%	290	20%	265	12%
Media	788	34%	1214	29%	1215	19%
Other Governments	15	20%	5	40%	6	17%
Other Public Bodies	21	19%	20	15%	23	9%
Political Party	1007	21%	1633	25%	2476	20%
Researcher	23	39%	153	47%	42	40%
Total	3182	25%	4565	26%	5235	19%

Appendix 9: Fees Estimated vs. Fees Paid

Year	Number of Fee Estimates	Total Fees Estimated	Total Fees Paid	% Paid vs. Estimated
2009/10	357	\$ 981,390.56	\$ 52,965.00	5%
2010/11	415	\$ 406,639.68	\$ 51,706.76	13%
2011/12	328	\$ 335,635.41	\$ 29,846.07	9%
2012/13	410	\$ 549,258.55	\$ 57,935.05	11%
2013/14	385	\$ 484,747.50	\$ 65,467.57	14%
Total last five years	1895	\$2,757,721.70	\$257,920.45	9%