

National Energy
Board



Office national
de l'énergie

Annual Report
pursuant to the
Privacy Act

1 April 2011 - 31 March 2012

Canada

National Energy Board

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Pursuant to the
Privacy Act

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Cat No. NE1-6/2-2012E-PDF
ISSN 1926-3767

This report is published separately in both official languages. This publication is available upon request in multiple formats.

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Printed in Canada

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N° de cat. NE1-6/2-2012F-PDF
ISSN 1926-3783

Ce rapport est publié séparément dans les deux langues officielles. On peut obtenir cette publication sur supports multiples, sur demande.

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Imprimé au Canada

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I. Introduction

Privacy Act

The *Privacy Act* (the Act) gives individuals the right of access to information about themselves held by the federal government with certain specific and limited exceptions. The Act protects an individual's privacy by setting out provisions related to the collection, retention, use and disclosure of personal information.

In accordance with section 72 of the Act, the head of every federal institution is required to submit an Annual Report to Parliament on the administration of the Act following the close of each fiscal year. The Annual Reports are then tabled in Parliament pursuant to section 72 of the Act. This report describes how the National Energy Board (NEB or Board) fulfilled its privacy responsibilities during the fiscal year 2011-2012.

About the National Energy Board

The Board is an independent federal regulator established in 1959 to promote safety and security, environmental protection and economic efficiency in the Canadian public interest within the mandate set by Parliament for the regulation of pipelines, energy development and trade. The Board reports to Parliament through the Minister of Natural Resources. The Board regulates the following specific aspects of the energy industry:

- the construction and operation of interprovincial and international pipelines;
- pipeline traffic, tolls and tariffs;
- the construction and operation of international and designated interprovincial power lines;
- the export and import of natural gas;
- the export of oil and electricity; and
- Frontier oil and gas activities.

Other responsibilities include:

- providing energy advice to the Minister of Natural Resources in areas where the Board has expertise derived from its regulatory functions;
- carrying out studies and preparing reports when requested by the Minister;
- conducting studies into specific energy matters;
- holding public inquiries when appropriate; and
- monitoring current and future supplies of Canada's major energy commodities.

In addition to its responsibilities under the *National Energy Board Act* (NEB Act), the Board also has responsibilities under the *Canada Oil and Gas Operations Act*, the *Canadian Environmental Assessment Act*, the *Northern Pipeline Act*, and certain provisions of the *Canada Petroleum Resources Act*. As a result of the *Canada Transportation Act*, which came into effect on 1 July 1996, the Board's jurisdiction has been broadened to also include pipelines that transport commodities other than oil or natural gas.

For more information about the National Energy Board, please visit our website at:

www.neb-one.gc.ca

II. Description of institution structure

The Access to Information and Privacy (ATIP) Office

Activities relating to the *Privacy Act* during the reporting period were the responsibility of the Strategic Leader of Business Integration, who has been designated by the Chair and CEO of the Board as the Coordinator. Organizationally, the Access to Information and Privacy (ATIP) team resides within the Office of the Secretary and Regulatory Services Team, and reports to the Strategic Leader of Business Integration.

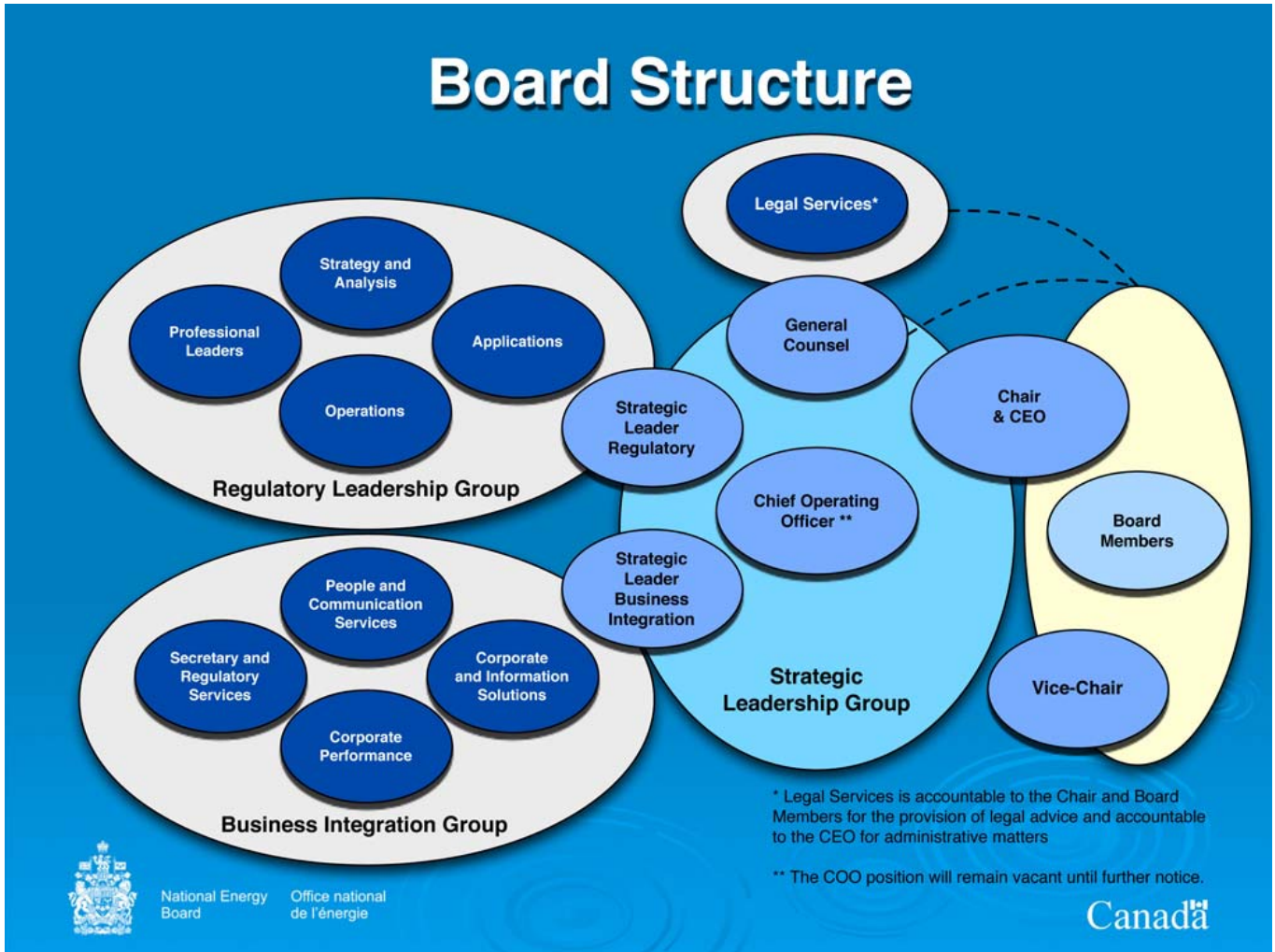
The Chair and CEO has overall responsibility for ensuring that the Board's policies, procedures and practices are compliant with the application and administration of the *Privacy Act*. The National Energy Board has procedures in place to process privacy requests. These requests are processed by the Access to Information and Privacy Coordinator who has the authority to access all records held by the Board. The ATIP Office works closely with Information and Document Services and Senior Management across the organization.

The ATIP Office, under the guidance of the Strategic Leader of Business Integration, was comprised of one permanent full-time Officer in April 2011, one permanent full-time Administrative Assistant who acted on a term assignment for four months as an Officer and one senior Officer on assignment from another department of the Board. The Executive Support Advisor oversees this team. In addition, the Board hired a contractor to assist part-time in the processing and coordinating of ATIP requests in January of 2012. Taking into account the contractor and the Executive Support Advisor who both work part-time on Access to Information, there are currently 4 full-time equivalents (FTEs) in the Board's ATIP Office.

In addition to providing legal advice and guidance to the ATIP Office on all issues related to the application of the Act, the Board's Legal Services, in general, assist the offices of primary interest within the Board and the ATIP Office in the delivery of their program and activities having a *Privacy Act* component.

The ATIP Office is responsible for the coordination and implementation of policies, guidelines and procedures to ensure the organization's compliance with the *Privacy Act*. The office also provides the following services to the organization:

- Responding to privacy requests;
- Monitoring trends in national and international privacy issues to provide informed advice to clients;
- Ensuring that the Board's personal information holdings are published in Info Source;
- Coordinating and overseeing the Privacy Impact Assessment process for the NEB;
- Advising program managers of the requirements of the Privacy Act for the collection, retention, use, and disclosure of personal information;
- Promoting staff awareness and providing training on the Privacy Act; and
- Developing corporate privacy policies and practices to protect and guide access to personal information.



Info Source

Info Source is a series of publications containing information about and/or collected by the Government of Canada. The primary purpose of *Info Source* is to assist individuals in exercising their rights under the *Access to Information Act* and the *Privacy Act*. *Info Source* also supports the federal government's commitment to facilitate access to information regarding its activities.

During this reporting period, the ATIP Office re-organized the content of its *Info Source* chapter, including the description of its information holdings by institutional functions, programs and activities. The NEB's chapter is now aligned with its Program Activity Architecture. Under this approach, all classes of records and personal information banks are directly linked to the relevant institutional program and/or activity.

In response to a recommendation from Treasury Board Secretariat on the NEB's Management Accountability Framework, the Board will also review the personal information it collects, uses and discloses in order to meet TBS requirements and the *Privacy Act* legislation

III. Designation Order



Privacy Act Designation Replacement Order

The Chair and CEO of the National Energy Board (the Board), pursuant to Section 73 of the *Privacy Act* (the Act) hereby replaces the *Privacy Act Designation Order* made on the 18th day of March 1983, at the City of Ottawa, in the Province of Ontario by the following text.

The Chair and CEO of the Board, pursuant to Section 73 of the *Privacy Act*¹ hereby designates the person holding the position of Strategic Leader, Business Integration Group (SLBIG) to exercise the powers and perform the duties and functions of the Chair and CEO as head of a government institution under the Act. If the person holding the position of SLBIG is not available, then, the person holding the position of Secretary is hereby designated to exercise the powers and perform the duties and functions of the Chair and CEO as head of a government institution under the Act.

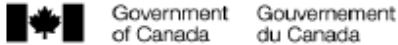
Dated at the City of Calgary, in the Province of Alberta, this 1st day of April 2011.



Gaétan Caron
Chair and CEO

¹ S.C. 1980-81-82 c. 111

IV. Statistical Report



Government of Canada / Gouvernement du Canada

Statistical Report on the *Privacy Act*

Name of institution: National Energy Board

Reporting period: 01-Apr-11 to 31-Mar-12

PART 1 – Requests under the *Access to Information Act*

	Number of Requests
Received during reporting period	4
Outstanding from previous reporting period	2
Total	6
Closed during reporting period	6
Carried over to next reporting period	0

PART 2 – Requests closed during the reporting period

2.1 Disposition and completion time

Disposition of requests	Completion Time							Total
	1 to 15 days	16 to 30 days	31 to 60 days	61 to 120 days	121 to 180 days	181 to 365 days	More than 365 days	
All disclosed	0	0	0	0	0	0	0	0
Disclosed in part	1	1	0	1	0	1	0	4
All exempted	0	0	0	0	0	0	0	0
All excluded	0	0	0	0	0	0	0	0
No records exist	0	0	0	0	0	0	0	0
Request transferred	0	0	0	0	0	0	0	0
Request abandoned	1	0	0	0	1	0	0	2
Total	2	1	0	1	1	1	0	6

2.2 Exemptions

Section	Number of requests	Section	Number of requests	Section	Number of requests
18(2)	0	22(1)(a)(i)	0	23(a)	0
19(1)(a)	0	22(1)(a)(ii)	0	23(b)	0
19(1)(b)	0	22(1)(a)(iii)	0	24(a)	0
19(1)(c)	0	22(1)(b)	0	24(b)	0
19(1)(d)	0	22(1)(c)	0	25	0
19(1)(e)	0	22(2)	0	26	5
19(1)(f)	0	22.1	0	27	2
20	0	22.2	0	28	0
21	0	22.3	0		

2.3 Exclusions

Section	Number of requests	Section	Number of requests	Section	Number of requests
69(1)(a)	0	70(1)(a)	0	70(1)(d)	0
69(1)(b)	0	70(1)(b)	0	70(1)(e)	0
69.1	0	70(1)(c)	0	70(1)(f)	0
				70.1	0

2.4 Format of information released

Disposition	Paper	Electronic	Other formats
All disclosed	0	0	0
Disclosed in part	5	0	0
Total	5	0	0

2.5 Complexity

2.5.1 Relevant pages processed and disclosed

Disposition of requests	Number of pages processed	Number of pages disclosed	Number of requests
All disclosed	0	0	0
Disclosed in part	1325	1325	4
All exempted	0	0	0
All excluded	0	0	0
Request abandoned	204	204	2

2.5.2 Relevant pages processed and disclosed by size of requests

Disposition	Less than 100 pages processed		101-500 pages processed		501-1000 pages processed		1001-5000 pages processed		More than 5000 pages processed	
	Requests	Pages disclosed	Requests	Pages disclosed	Requests	Pages disclosed	Requests	Pages disclosed	Requests	Pages disclosed
All disclosed	0	0	0	0	0	0	0	0	0	0
Disclosed in part	2	92	0	0	2	1233	0	0	0	0
All exempted	0	0	0	0	0	0	0	0	0	0
All excluded	0	0	0	0	0	0	0	0	0	0
Abandoned	1	0	1	204	0	0	0	0	0	0
Total	3	92	1	204	2	1233	0	0	0	0

2.5.3 Other complexities

Disposition	Consultation required	Legal advice sought	Interwoven Information	Other	Total
All disclosed	0	0	0	0	0
Disclosed in part	1	4	1	0	6
All exempted	0	0	0	0	0
All excluded	0	0	0	0	0
Abandoned	0	1	0	0	1
Total	1	5	1	0	7

2.6 Deemed refusals

2.6.1 Reasons for not meeting statutory deadline

Number of requests closed past the statutory deadline	Principal Reason			
	Workload	External consultation	Internal consultation	Other
3	2	1	0	0

2.6.2 Number of days past deadline

Number of days past deadline	Number of requests past deadline where no extension was taken	Number of requests past deadline where an extension was taken	Total
1 to 15 days	0	1	1
16 to 30 days	0	0	0
31 to 60 days	0	0	0
61 to 120 days	1	0	1
121 to 180 days	0	0	0
181 to 365 days	0	1	1
More than 365 days	0	0	0
Total	1	2	3

2.7 Requests for translation

Translation Requests	Accepted	Refused	Total
English to French	0	0	0
French to English	0	0	0
Total	0	0	0

PART 3 – Disclosures under subsection 8(2)

Paragraph 8(2)(e)	Paragraph 8(2)(m)	Total
0	0	0

PART 4 – Requests for correction of personal information and notations

	Number
Requests for correction received	0
Requests for correction accepted	0
Requests for correction refused	0
Notations attached	0

PART 5 – Extensions

5.1 Reasons for extensions and disposition of requests

Disposition of requests where an extension was taken	15(a)(i) Interference with operations	15(a)(ii) Consultation		15(b) Translation or coversation
		Section 70	Other	
All disclosed	0	0	0	0
Disclosed in part	1	0	1	0
All exempted	0	0	0	0
All excluded	0	0	0	0
No records exist	0	0	0	0
Request abandoned	0	0	0	0
Total	1	0	1	0

5.2 Length of extensions

Length of extensions	15(a)(i) Interference with operations	15(a)(ii) Consultation		15(b) Translation purposes
		Section 70	Other	
1 to 15 days	0	0	0	0
16 to 30 days	1	0	1	0
Total	1	0	1	0

PART 6 – Consultations received from other institutions and organizations

6.1 Consultations received from other government institutions and organizations

Consultations	Other government institutions	Number of pages to review	Other organizations	Number of pages to review
Received during reporting period	0	0	0	0
Outstanding from the previous reporting period	0	0	0	0
Total	0	0	0	0
Closed during the reporting period	0	0	0	0
Pending at the end of the reporting period	0	0	0	0

6.2 Recommendations and completion time for consultations received from other government institutions

Recommendation	Number of days required to complete consultation requests							Total
	1 to 15 days	16 to 30 days	31 to 60 days	61 to 120 days	121 to 180 days	181 to 365 days	than 365 days	
Disclose entirely	0	0	0	0	0	0	0	0
Disclose in part	0	0	0	0	0	0	0	0
Exempt entirely	0	0	0	0	0	0	0	0
Exclude entirely	0	0	0	0	0	0	0	0
Consult other institution	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0

6.3 Recommendations and completion time for consultations received from other organizations

Recommendation	Number of days required to complete consultation requests							Total
	1 to 15 days	16 to 30 days	31 to 60 days	61 to 120 days	121 to 180 days	181 to 365 days	than 365 days	
Disclose entirely	0	0	0	0	0	0	0	0
Disclose in part	0	0	0	0	0	0	0	0
Exempt entirely	0	0	0	0	0	0	0	0
Exclude entirely	0	0	0	0	0	0	0	0
Consult other institution	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0

PART 7 – Completion time of consultations on Cabinet confidences

Number of days	Number of responses received	Number of responses received past deadline
1 to 15	0	0
16 to 30	0	0
31 to 60	0	0
61 to 120	0	0
121 to 180	0	0
181 to 365	0	0
More than 365	0	0
Total	0	0

PART 8 – Resources related to the *Privacy Act***8.1 Costs**

Expenditures		Amount
Salaries		\$20,593
Overtime		\$1,219
Goods and Services		\$10,851
• Contracts for privacy impact assessments	\$0	
• Professional services contracts	\$6,658	
• Other	\$4,193	
Total		\$32,663

8.2 Human Resources

Resources	Dedicated full-time	Dedicated part-time	Total
Full-time employees	0	0	0
Part-time and casual employees	0	0	0
Regional staff	0	0	0
Consultants and agency personnel	0	0	0
Students	0	0	0
Total	0	0	0

V. Interpretation / Explanation

PART 1 - Requests under the *Privacy Act*

Number of Requests

During the reporting period, the Board received four requests under the *Privacy Act*. Two requests were outstanding from the previous reporting period. Of the six requests, all were closed and none were carried over to the next reporting period.

PART 2 - Requests closed during the reporting period

Disposition and completion time

Of the six requests closed during the reporting period, documents were disclosed in part in response to four requests and two requests were abandoned by the applicant.

Of the four requests disclosed in part, one was completed in 1 – 15 days, one was completed in 16 – 30 days, one was completed in 61 – 120 days and one was completed in 181 – 365 days.

In the two cases where requests were abandoned by the applicant, one was abandoned after less than 15 days, and the second was abandoned between 121 – 180 days.

Exemptions

The following exemptions were invoked during the processing of Privacy requests during this period:

Personal information:

- 26 was invoked for five requests

Solicitor-client privilege:

- 27 was invoked for two requests

Exclusions

There were no requests received during the reporting period for which exclusions were applied under either section 69 or 70.

Format of Information Released

For all requests, the requesters received paper copies of the information.

Complexity

The number of pages processed means the number of pages that were analyzed to determine whether the information can be disclosed, exempt or excluded. It does not reflect the number of pages that were examined to determine relevancy. A partially disclosed page would be counted as a page disclosed.

Relevant pages processed and disclosed

In the four cases where documents were disclosed in part, the NEB processed 1325 pages and disclosed all 1325 pages. In the two requests that were abandoned, 204 pages were processed and again all 204 pages were disclosed.

Relevant pages processed and disclosed by size of requests

In the 3 instances where less than 100 pages were processed, the NEB disclosed 92 pages for the two requests disclosed in part and zero pages for the abandoned request. Where 101-500 pages were processed, the NEB disclosed 204 pages for that request. In response to two requests where 501-1000 pages were processed, the NEB disclosed 1233 pages.

Other complexities

In certain cases, there were factors that increased the complexity of requests. In one case, consultations were required and legal advice was sought on five requests completed during the reporting period. Interwoven information (this includes requests where the relevant records contain personal information about another individual that is interwoven with the personal information of the requester) was a complexity in one case.

Deemed Refusals

Requests are considered to fall into a deemed refusal status when they have not been answered within the deadlines (either the original 30-day period or within an extended period).

Reasons for not meeting statutory deadline

During the reporting period, the Board did not close three requests within the statutory (original or extended) deadline. The main reason for not meeting the deadline in two of those cases was due to workload, meaning that there were a large number of requests to be processed (including Access to Information requests), insufficient resources and other ATIP-related tasks that required completion such as complaints, training, *Info Source* chapter revision and action plans under the Management Accountability Framework. The NEB, in the coming year, will be investing in ATIP with additional funding, training and mentoring to retain current ATIP staff. In one case, the deadline was not met due to the Board's obligation to consult with external individuals or entities.

Number of days past deadline

In the single case where the NEB responded past the deadline where no extension was taken, that response was 61-120 days past the deadline.

In the two cases where the NEB responded past the deadline where an extension was taken, one was completed 1-15 days past the deadline and the other was completed 181-365 days past the deadline.

Requests for translation

No translations were required to respond to 2011-2012 Privacy requests.

PART 3 – Disclosures under subsection 8(2)(m)

The Board did not disclose any information under subsection 8(2)(m).

PART 4 – Requests for correction of personal information and notations

There were no requests for the correction or the notation of personal information during the reporting period.

PART 5 – ExtensionsReasons for extensions and disposition of requests

Legal extensions were most frequently invoked to provide time to search through voluminous records. Where records were partially disclosed, two extensions were taken for consultations under 15(a)(ii).

Length of extensions

In both cases where an extension was taken under 15(a)(ii), the Board required an extension of 16-30 days.

PART 6 – Consultations received from other institutions and organizations

The Board did not receive any consultations from other government institutions and organizations.

PART 7 – Completion time of consultations on Cabinet confidences

The Board did not undertake any consultations on the application of section 70 of the *Privacy Act* that were sent to the Cabinet Confidences Section of the Privy Council Office.

PART 8 – Resources related to the *Privacy Act*

Costs

Costs are only to include those related to the administration of the *Privacy Act* incurred by the ATIP Office that has authority to respond to formal privacy requests or requests for correction of personal information. Costs do not include those that were incurred by other areas of the institution, including Offices of Primary Interest and Legal Services. The total cost for resources related to the *Privacy Act* over the reporting period was \$32,663.

The total amount paid for salaries of employees working in the ATIP Office on activities related to the administration of the *Privacy Act* was \$20,593.

The Board did not have adequate funding to provide overtime for all additional hours worked in the ATIP Office. Over the reporting period, 33 hours were claimed as “banked time” by the ATIP Officers which amounted to a total of \$1,219.

The Board spent \$10,851 on goods and services related to the administration of the *Privacy Act*. \$6,658 was spent on professional services contracts and \$4,193 was spent on other goods and services.

Human Resources

Over the reporting period, the NEB had three resources dedicated full-time to Access to Information and Privacy activities, two full-time employees dedicated part-time to Access to Information and Privacy activities (the delegated authority and the executive support advisor) and one consultant dedicated part-time to Access to Information and Privacy activities. Because the Board receives almost twenty times the amount of Access to Information requests as it does Privacy requests, the bulk of the Board’s resources are dedicated primarily to Access to Information. The resources associated with ATIP were reported on the statistical report for Access to Information and not duplicated on the statistical report for Privacy, in accordance with direction from the Treasury Board Secretariat.

VI. Training

Training for ATIP Analysts

During the reporting period, ATIP staff attended training on AccessPro software (Privasoft) Case Management and Redaction for both the Administrator and End-User. ATIP staff participated by teleconference in courses offered by the Treasury Board of Canada Secretariat regarding Access to Information and Privacy, Personal Information Banks, Info Source and Parliamentary Reporting Requirements.

During the reporting period, Yvon Gauthier Info-Training provided a 2-day intensive training course to all ATIP staff.

Training for National Energy Board Staff

The NEB promotes access to information imperatives in face-to-face meetings, presentations, special events, learning products, on the Intranet and through its training program. It fosters responsible working relationships with clients and operates under clearly defined timelines.

The Board continues to deliver general training to raise employees' awareness of their responsibilities under the *Privacy Act* and specialized training to respond to client's needs. The ATIP Office provided general training on the provisions of the *Access to Information Act* and the *Privacy Act* and their impact on Board programs and initiatives.

ATIP staff also participated in orientation sessions where information was provided to new Board employees regarding obligations under both Acts.

During the reporting period, Yvon Gauthier Info-Training provided a 2-day intensive training session for designated Board staff, a half-day session on Privacy in order to assist the Board in developing a strategy to determine the areas in which the Board collects, uses and discloses personal information that may require additional Privacy Impact Assessments to be undertaken or revised Personal Information Banks and/or Classes of Personal Information and a full day workshop on exemptions and the exercise of discretion. Yvon Gauthier Info-Training also provided four half-day mandatory training sessions for other Board staff. To date, 367 of the Board's roughly 400 employees have taken the ATIP training. The mandatory training is an ongoing initiative that will be carried on during the 2012-2013 fiscal year and reported upon at a later date.

In addition, the Board's Information and Document Services Team delivered sessions with colleagues in Records Management and Security Management highlighting horizontal linkages between ATIP, Security and Records Management, and our electronic corporate records repository (RDIMS). Employees who attend these sessions develop a complete awareness of their responsibilities and are more able to responsibly handle information at the National Energy Board.

VII. New or revised policies and guidelines

The National Energy Board revised and refined its policy and procedures guide during the reporting period. The NEB has instituted a process to account for the completeness of searches for *Privacy Act* requests. Responsible officials are required to prepare a statement of completeness and must attest that a thorough search has been performed, that the recommendations for exemption are provided with a rationale and that they have considered and abided by the principles supporting the duty to assist the requester.

Procedures were streamlined to better assist the offices of primary interest with their retrieval processes to ensure that established timelines are respected.

In April 2012, the NEB brought into service a redesigned version of its case management software. The program contains more comprehensive reporting and document management functions than the outgoing version and will facilitate the completion of expanded Statistical Reports brought into effect by the Treasury Board in April 2011.

VIII. Complaints / Investigations

Through the 2011-2012 reporting period, the NEB was notified of one complaint received by the Office of the Privacy Commissioner. The investigation of that complaint was completed and resolved to the satisfaction of the requester.

IX. Privacy Impact Assessments

The Board did not initiate any Privacy Impact Assessments during the reporting period.

X. Enhancing Support and Sustaining Compliance

Senior management at the National Energy Board supports the development and implementation of a Privacy Management Framework; this will enable a more effective management of privacy within the NEB and facilitate compliance with TBS Policy and Directives obligations.

The Board will be undertaking a review of all collections of personal information the NEB collects, uses and discloses in order to meet TBS requirements and the *Privacy Act* legislation. This is an ongoing initiative that will be carried on during the 2012-2013 fiscal year and reported upon at a later date. Focusing on improved accountability, the Framework will include clear roles and responsibilities for Board staff and ATIP, improved monitoring of personal information, procedures to ensure that the ATIP office is notified of any personal information collection, a revised Privacy Impact Assessment process, options for renewed privacy governance, and more targeted awareness building and training for officials responsible for privacy information.