

National Energy
Board



Office national
de l'énergie

Annual Report
pursuant to the
Privacy Act

1 April 2012 - 31 March 2013

Canada

National Energy Board

Annual Report
Pursuant to the
Privacy Act

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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 2012-2013.

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 majority of the reporting period were the responsibility of the Strategic Leader of Business Integration, who had been designated by the Chair and CEO of the Board as the Coordinator from 1 April 2012 through 31 January 2013. Effective 1 February 2013, the Chair designated the Secretary 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.

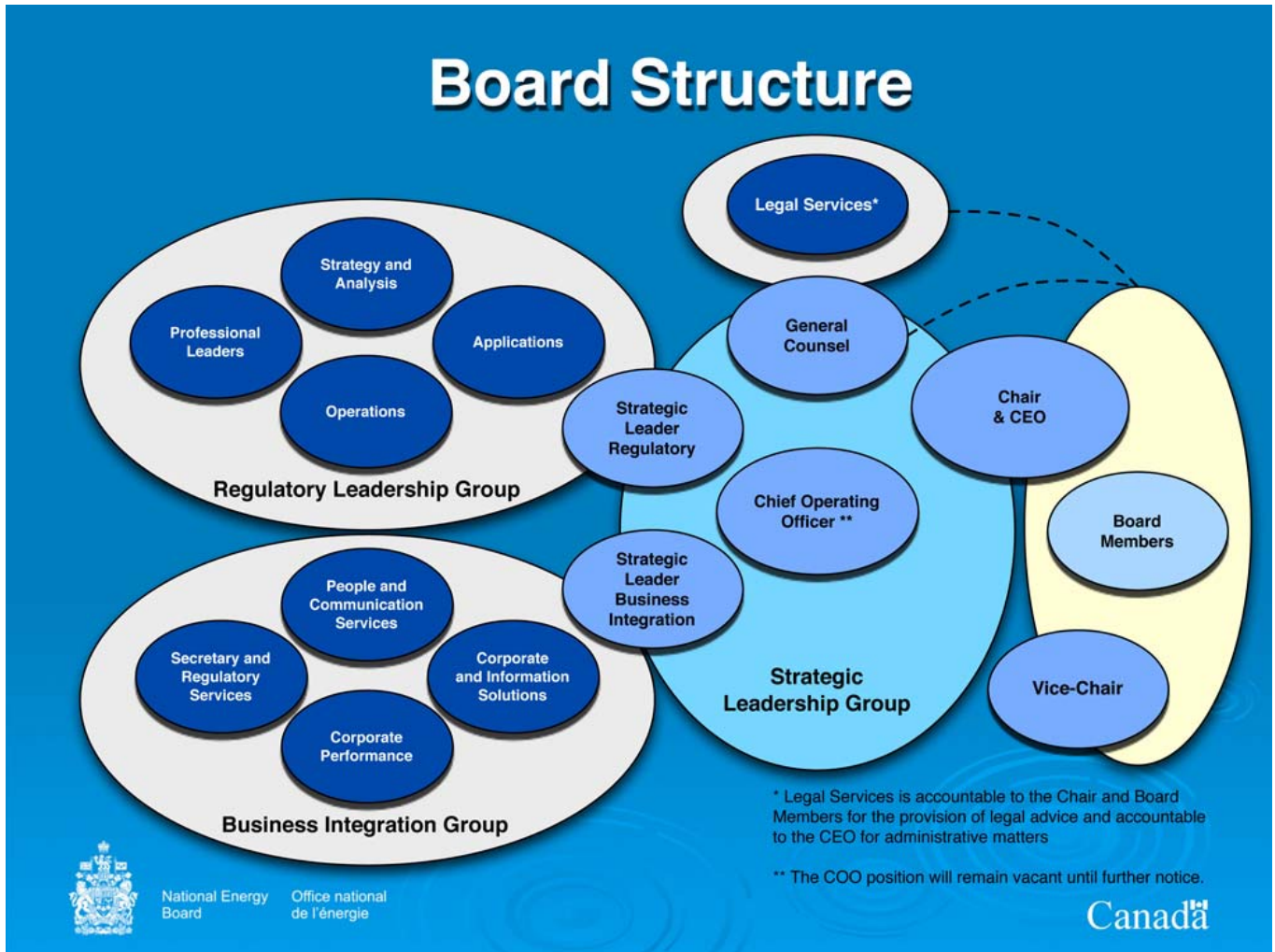
The Chair and CEO has overall responsibility for ensuring that the Board's policies, procedures and practices are compliant with the application and administration of the *Privacy Act*. The National Energy Board has procedures in place to process privacy requests. These requests are processed by the 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 is comprised of two permanent full-time Officers 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 of ATIP requests. 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 updated 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 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 (TBS) on the NEB's Management Accountability Framework, the Board has also reviewed the personal information it collects, uses and discloses in order to meet TBS requirements and the *Privacy Act* legislation.

III. Designation Orders

National Energy
Board



Office national
de l'énergie

Office of the Chair and CEO

Bureau du président et premier dirigeant

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

National Energy
BoardOffice national
de l'énergie

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 1st day of April 2011 at the City of Calgary, in the Province of Alberta 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 Secretary of the Board 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 February 2013.



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-12 to 31-Mar-13

PART 1 – Requests under the *Privacy Act*

| | Number of Requests |
|--|--------------------|
| Received during reporting period | 1 |
| Outstanding from previous reporting period | 0 |
| Total | 1 |
| Closed during reporting period | 1 |
| 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 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| 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 abandoned | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |

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 | 1 |
| 19(1)(f) | 0 | 22.1 | 0 | 27 | 1 |
| 20 | 0 | 22.2 | 0 | 28 | 0 |
| 21 | 0 | 22.3 | 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 | 0 | 0 | 0 | 0 | 0 |
| All exempted | 0 | 0 | 0 | 0 | 0 |
| All excluded | 0 | 0 | 0 | 0 | 0 |
| Abandoned | 0 | 0 | 0 | 0 | 0 |
| Total | 0 | 0 | 0 | 0 | 0 |

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 |
| 0 | 0 | 0 | 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 | 0 | 0 |
| 16 to 30 days | 0 | 0 | 0 |
| 31 to 60 days | 0 | 0 | 0 |
| 61 to 120 days | 0 | 0 | 0 |
| 121 to 180 days | 0 | 0 | 0 |
| 181 to 365 days | 0 | 0 | 0 |
| More than 365 days | 0 | 0 | 0 |
| Total | 0 | 0 | 0 |

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 conversion |
|--|--|---------------------------|----------|------------------------------------|
| | | Section 70 | Other | |
| All disclosed | 0 | 0 | 0 | 0 |
| Disclosed in part | 0 | 0 | 0 | 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 | 0 | 0 | 0 | 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 | 0 | 0 | 0 | 0 |
| Total | 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 | | \$12,240 |
| Overtime | | \$0 |
| Goods and Services | | \$5,924 |
| • Contracts for privacy impact assessments | \$0 | |
| • Professional services contracts | \$4,634 | |
| • Other | \$1,290 | |
| Total | | \$18,164 |

8.2 Human Resources

| Resources | Dedicated full-time | Dedicated part-time | Total |
|----------------------------------|---------------------|---------------------|-------------|
| Full-time employees | 0.00 | 0.00 | 0.00 |
| Part-time and casual employees | 0.00 | 0.00 | 0.00 |
| Regional staff | 0.00 | 0.00 | 0.00 |
| Consultants and agency personnel | 0.00 | 0.00 | 0.00 |
| Students | 0.00 | 0.00 | 0.00 |
| Total | 0.00 | 0.00 | 0.00 |

V. Interpretation / Explanation

PART 1 - Requests under the *Privacy Act*

Number of Requests

During the reporting period, the Board received only one request pursuant to the *Privacy Act*. None were outstanding from the previous reporting period. The one request received was closed and none were carried over to the next reporting period.

PART 2 - Requests closed during the reporting period

Disposition and completion time

The request processed by the National Energy Board was disclosed in part and was completed in 16 – 30 days.

Exemptions

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

Personal information:

- Section 26

Solicitor-client privilege:

- Section 27

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

The requester received a paper copy 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

For the *Privacy Act* request closed this year and disclosed in part, the NEB processed 96 pages and disclosed all 96 pages.

Relevant pages processed and disclosed by size of requests

For the request received, less than 100 pages were processed and the NEB disclosed 96 pages.

Other complexities

There were no factors that increased the complexity of the request received.

Deemed Refusals

During the reporting period, the Board only received one request and it was completed within the statutory deadline.

Requests for translation

No translations were required to respond to 2012-2013 Privacy requests.

PART 3 – Disclosures under subsection 8(2)

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

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 – Extensions

No extensions were taken on the Privacy request received by the NEB during this reporting period.

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 \$18,164.

The total amount paid for salaries of employees working in the ATIP Office on activities related to the administration of the *Privacy Act* was \$12,240.

The Board spent \$5,924 on goods and services related to the administration of the *Privacy Act*. \$4,634 was spent on professional services contracts and \$1,290 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 received only a single Privacy Request and almost 100 Access to Information 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 participated in the following events and training sessions:

ARMA International Information Session on Privacy Issues: 11 March 2013

ARMA International is the oldest and largest association for the Records and Information Management profession, with more than 11,000 members worldwide. This year, three members of the ATIP team attended the luncheon featuring Alberta's Privacy Commissioner, Jill Clayton. Ms. Clayton spoke about current issues and trends in privacy, touching on aspects of social media and technology advances. She also provided background information as well as real life examples of cases she has adjudicated in her practice as commissioner.

Yvon Gauthier Info-Training: 4 – 8 February 2013

Yvon Gauthier provides a complete selection of training courses designed to increase knowledge and awareness of Access to Information and Privacy issues and legislation. During the reporting period, four members of the ATIP team attended the following three sessions:

- **Focus on Privacy:** What is “personal information” and what are the restrictions around its collection, use and dissemination?
- **Privacy Management Framework:** A Privacy Management Framework outlines the structure for reducing privacy threats and vulnerabilities. Establishing a strengthened privacy framework requires a situational analysis of existing governance, procedures, training, and technology.
- **Info-Source:** An inventory of the personal information that is collected, used or disclosed by the NEB to ensure that all particular personal information banks have been registered, are up-to-date and reflect the requirements of the law and Treasury Board Secretariat Policies and Directives.

Canadian Access and Privacy Association (CAPA): 3 December 2012

CAPA is a non-profit incorporated organization established in 1987 for the purpose of furthering the knowledge and expertise of its members in the legal and practical aspects of access to information and the protection of privacy. This year, two members of the ATIP team attended the Annual Conference in Ottawa featuring:

- Keynote speeches from Suzanne Legault, the Information Commissioner of Canada and from Jennifer Stoddard, the Privacy Commissioner of Canada;
- Information on privacy-enabling innovation and new technologies;
- A summary of important court decisions from the past year on access and privacy issues; and
- Breach notification policies and procedures.

Informal Meeting with the Information and Privacy Policy Division (IPPD) of the Treasury Board Secretariat: 4 December 2013

Two of the ATIP staff members met with a Policy Analyst at the IPPD to discuss Privacy Impact Assessments, Personal Information Banks, Management Accountability Frameworks and other issues related to Privacy.

ATIP staff also participated in informal 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.

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 54 new Board employees regarding obligations under both Acts.

During the reporting period, Yvon Gauthier Info-Training provided two full-day intensive training sessions for designated Board staff (18 attendees), four half-day sessions for all NEB staff (60 attendees) and three half-day sessions with a focus on Privacy (18 attendees). NEB staff also participated in a specialized session 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.

Access to Information and Privacy Training is mandatory at the National Energy Board. The training is an ongoing initiative that will be carried on during the 2013-2014 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 continues to revise and refine its procedures guide and ensures compliance with the 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.

During the reporting period, the Board developed the following new documents related to the implementation of privacy legislation and a privacy culture at the Board:

- Web Site Privacy Policy
- Options for Structural Design of a Privacy Management Framework
- National Energy Board Breeches and Incidents Policy
- National Energy Board Short Privacy Breeches and Incidents Procedure
- National Energy Board Comprehensive Privacy Breeches and Incidents Procedure
- National Energy Board Privacy Impact Assessment Policy
- National Energy Board Procedure for the Conduct of Privacy Impact Assessments
- Privacy Policy and Guidelines for the Collection, Creation, Management and Handling of Personal Information
- The Privacy Concept
- Creating Meaningful and Privacy Compliant Records
- Privacy and the Management of Human Resources
- Privacy and Communications
- Privacy and Contracting

VIII. Complaints / Investigations

No privacy complaints were received and no audits or investigations were concluded during the reporting period.

IX. Privacy Impact Assessments

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

X. Disclosures made pursuant to paragraph 8(2)(m) of the *Privacy Act*

The National Energy Board did not make any disclosures under paragraph 8(2)(m) during the reporting period.

XI. 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 Treasury Board Secretariat Policy and Directives obligations.

The Board has undertaken a review of all collections of personal information the NEB collects, uses and discloses in order to meet Treasury Board Secretariat requirements and the *Privacy Act* legislation. This is an ongoing initiative that will be carried forward during the 2013-2014 fiscal year. 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.