



Annual Report on the *Access to Information Act*

For the period from April 1, 2022, to March 31, 2023

**Public Sector Pension Investment
Board and its Wholly-Owned
Subsidiaries**

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I. Executive Summary

As federal Crown corporations, the Public Sector Pension Investment Board (“PSPIB”) and its Wholly-Owned Subsidiaries (collectively “PSP”) are subject to the *Access to Information Act*,¹ and are pleased to present this report in accordance with the legislative requirements of the Act.

This year’s results show that PSP has maintained its high levels of performance. Here is an overview of main results in terms of access to information (“ATI”) during the reporting period:

- ATI requests completed within legislated timelines: **100%** compliance.
- ATI requests received: 4 (- **43%** from the previous year).
- Pages processed: 4,626 (+ **897.60%** pages processed in 2022-23 compared with 2021-22).
- **All** mandated proactive disclosure requirements were met.
- 1 complaint was received and deemed **unfounded** by the Information Commissioner of Canada.

This report describes PSP’s performance in terms of ATI and reflects our commitment to openness and transparency as core principles for a modern, open and ethical administration.

II. Introduction

PSP is pleased to present to Parliament its annual report on the administration of the *Access to Information Act* for fiscal year 2022–23 (April 1, 2022, to March 31, 2023).

PSP operates from its offices in Montréal (Québec) and Ottawa (Ontario), as well as from international offices operated by its wholly-owned subsidiaries in London (United Kingdom), New York (United States) and Hong Kong (Special Administrative Region).

II.1 Purpose of the Access to Information Act

The purpose of the *Access to Information Act* is to enhance the accountability and transparency of federal institutions to promote an open and democratic society and to enable public debate on the conduct of those institutions. In furtherance of that purpose:

- **Part 1** of the *Access to Information Act* extends the present laws of Canada to provide a right of ATI in records under the control of a government institution in accordance with the principles that government information should be available to the public, that necessary exceptions to the right of access should be limited

¹ <https://laws-lois.justice.gc.ca/PDF/A-1.pdf>, at sections 3, and 3.01.

and specific, and that decisions on the disclosure of government information should be reviewed independently of government.

- **Part 2** of the Act sets out requirements for the proactive publication of information.

II.2 Presentation of the Report

This report is prepared and tabled in accordance with the following:

- Section 3.01 of the *Access to Information Act*, which states that PSPIB is a parent Crown corporation for the purposes of the Act.
- Section 94 of the *Access to Information Act*, which requires the head of every federal institution to prepare and submit an annual report to Parliament on the administration of the Act within the institution during the fiscal year.

In addition, in accordance with Treasury Board of Canada Secretariat (TBS) content requirements for the 2022-23 annual reports,² please note that PSP is not subject to the *Service Fees Act*.³

II.3 Mandate of the PSP

PSP manages the amounts transferred to it by the Government of Canada for the funding of benefits earned from April 1, 2000, by members of the public sector pension plans of the federal Public Service, the Canadian Forces, the Royal Canadian Mounted Police and, since March 1, 2007, the Reserve Force.

In accordance with the *Public Sector Pension Investment Board Act*, PSP's statutory mandate is to:

- Manage amounts that are transferred to it in the best interests of the contributors and beneficiaries under the acts related to the Plans.
- Invest its assets with a view to achieving a maximum rate of return, without undue risk of loss, having regard to the funding, policies and requirements of the Plans and the ability of the Plans to meet their financial obligations.⁴

A list of subsidiaries 100% owned by PSPIB (as of March 31, 2023) to which the *Access to Information Act* applies is included in **Appendix A** (Wholly-Owned Subsidiaries).⁵

² April 28, 2023.

³ <https://laws-lois.justice.gc.ca/PDF/S-8.4.pdf> .

⁴ <https://laws-lois.justice.gc.ca/PDF/P-31.7.pdf>, at section 4.

⁵ In accordance with TBS content requirements for the 2022-23 annual reports, this list shows all subsidiaries subject to the *Access to Information Act* wholly-owned or managed by PSPIB, including those that were dissolved or created during the reporting period. In addition, the reporting requirements of an active subsidiary are met through separate reports, prepared by the ATIP coordinator responsible for the subsidiary's ATIP activities.

III. Organizational Structure

The Access to Information and Privacy (“ATIP”) office reports to the Legal Affairs Department.

The ATIP office is responsible for implementing and managing programs and services relating to PSP’s administration of, among other things, the *Access to Information Act* and the *Privacy Act*, as well as advising PSP employees on fulfilling their obligations.⁶

III.1 Access to Information and Privacy Team

The ATIP office is headed by a Senior Director (Legal Affairs), who is supported by two employees and consultants (on an ad-hoc basis) who collectively share responsibility for the Intake, Operations, Policies and Procedures. During fiscal 2022-23, ATIP was provided by PSP offices in Montréal, and Ottawa.

Team members work together closely to:

- Process ATIP requests.
- Support sector officials.
- Support proactive publication of information.
- Develop training materials, policies, procedures, and initiatives.

III.2 Specifics pertaining to Service Agreements

Section 96 of the *Access to Information Act* allows government institutions to provide ATIP services to another government institution chaired by the same minister. As noted above, the Public Sector Pension Investment Board is a parent Crown corporation for the purposes of the *Access to Information Act* and, as such, provides ATIP services on behalf of almost all of its wholly-owned subsidiaries subject to the *Access to Information Act*, the only exception being Revera Inc.⁷ In 2022–23, the PSP ATIP office did not establish any other service agreements for ATIP services.

⁶ As noted in the Introduction, PSP operates globally and has staff located in multiple countries. Consistent with the purposes of the *Access to Information Act*, the *Privacy Act* and related TBS policies and directives, PSP has developed comprehensive internal procedures. These procedures include applying, among others, the *European Union General Data Protection Regulation*, the *UK Data Protection Act*, the *New York Stop Hacks and Improve Electronic Data Security Act*, the *Hong Kong Personal Data (Privacy) Ordinance*, and the *Code of Fair Information Practices*.

⁷ For a comprehensive list, please see: <https://www.tbs-sct.canada.ca/ap/atip-aiprp/coord-eng.asp> .

III.3 Specifics pertaining to Proactive Publication of Information

Legislative Requirement	Section	Publication Timeline
All Government Institutions as defined in section 3 of the <i>Access to Information Act</i>		
Travel Expenses	82	Within 30 days after the end of the month of reimbursement.
Hospitality Expenses	83	Within 30 days after the end of the month of reimbursement.
Reports tabled in Parliament	84	Within 30 days after tabling.

PSP is subject to Part 2 of the *Access to Information Act*.^{8 9 10 11} The President and Chief Executive Officer (“CEO”), Senior Vice Presidents, and members of the Board of Directors of PSP have to disclose, within 30 days after the end of the month in which any travel or hospitality expense is reimbursed.

Information, such as the following, is proactively published:

For Travel Expenses:

- Name of person.
- Purpose of the travel.
- Dates of the travel.
- Places visited.
- Total costs for transportation, lodging, meals, incidentals, and other expenses.
- Total amount of the travel expenses.

For Hospitality¹² Expenses:

- Name of person.
- Purpose of the hospitality activity.
- Date of hospitality activity.
- The municipality in which the hospitality activity took place.

⁸ Section 3.1 of the *Access to Information Act* prescribes: “For greater certainty, for the purposes of this Act, information that relates to the general administration of a government institution includes information that relates to expenses paid by the institution for travel, including lodging, and hospitality.”

⁹ Section 81 of the *Access to Information Act* defines senior officers as being: “any person who exercises the powers or performs the duties and functions of ... a member of a board of directors, and any person who holds a position of an equivalent rank.”

¹⁰ Sections 82 and 83 of the *Access to Information Act*.

¹¹ Corollary TBS *Directive on Travel, Hospitality, Conference and Event Expenditures* (<https://www.tbs-sct.canada.ca/pol/doc-eng.aspx?id=27228>) and TBS Class of Records PRN 941, 933, and 935 (<https://www.canada.ca/en/treasury-board-secretariat/services/access-information-privacy/access-information/information-about-programs-information-holdings/standard-classes-records.html>).

¹² Hospitality consists of the provision of meals, beverages or refreshments in events that are necessary for the effective conduct of government business and for reasons of courtesy, diplomacy, or protocol, and includes events with other employees, board members and/or third parties.

- The name of any commercial establishment or vendor involved in the hospitality activity.
- The number of persons that attended the hospitality activity.
- Total amount of the hospitality expenses.

These requirements also apply to PSP's Wholly-Owned Subsidiaries.

The PSP ATIP office supports the publication of certain requirements for proactive publication of information under Part 2 of the *Access to Information Act*. This includes creating procedural guides on proactive publication, coordinating with the web team, and reviewing all documents before publication.

In 2022-23, the following information was reviewed by the PSP ATIP office as part of proactive publication.

III.3.1 Travel and Hospitality (sections 82 and 83)

In fiscal year 2022–23, there were **307** disclosures relating to travel and hospitality.¹³ All proactive disclosure requirements due during the reporting period (**100%**) were published monthly within the legislated timelines. PSP's Corporate Control department works with PSP's ATIP office to meet proactive disclosure requirements. PSP closely monitors the accuracy and completeness of information proactively released under Part 2 of the Act. To this end, PSP ATIP staff work closely with PSP's Managing Director and Corporate Controller staff. Monitoring is carried out at the time of reporting (on a monthly basis). This work is performed under the supervision of PSP's Senior Director, Legal Affairs. Control procedures are well developed and are in place to ensure compliance with the law. PSP fully adheres to the statutory publication schedule.

III.3.2 Reports Tabled in Parliament (section 84)

In 2022–23, there were **three** reports tabled in Parliament.¹⁴ PSP is fully compliant (**100%**) with the statutory publication schedule.

¹³ <https://www.investpsp.com/en/access-information/> .

¹⁴ <https://www.investpsp.com/en/access-information/> (2021-22 Annual Report on the Access to Information Act and 2021-22 Annual Report on the Privacy Act) and <https://www.investpsp.com/en/investment-performance/reports/> (2023 Annual Report).

IV. Delegation Order

In accordance with subsection 95(1) of the *Access to Information Act*, the President and CEO, acting in her capacity as Head of PSP, has delegated all powers, duties and functions related to the application of the Act to the following PSP officials:

- The Senior Vice-President and Chief Legal Officer.¹⁵
- The Senior Director, Legal Affairs and ATIP Coordinator.
- Advisor, Access to Information and Privacy, Legal Affairs.¹⁶
- Administrative Analyst, Legal Affairs.¹⁷

The delegation order was signed on September 1, 2022, and a copy can be found in **Appendix B**.

V. Performance in Fiscal Year 2022–23

Statistical reports prepared by government institutions provide aggregate data on the application of the *Access to Information Act* and the *Privacy Act*. This information is made public each year in a statistical report that accompanies the annual reports on ATI and privacy tabled in Parliament by each institution. The PSP Statistical Report on the *Access to Information Act* for 2022–23 can be found in **Appendix C**.

In addition, TBS has asked institutions to report on how COVID-19 related measures have affected their ability to carry out their responsibilities, receive requests and process records, as well as other ancillary performance data. As a result, PSP presents the 2022-23 Supplemental Statistical Report on the *Access to Information Act* and *Privacy Act* in **Appendix D**.

The following sections highlight PSP's performance in fiscal 2022–23 in relation to its obligations under the *Access to Information Act*, as well as analyses of notable statistical data for this year compared with previous years.

¹⁵ The delegate holds the position of Senior Vice President and Chief Legal and People Officer; Legal Affairs, Compliance, Taxation and Human Resources.

¹⁶ On November 18, 2022, the Advisor retired as an employee.

¹⁷ The Administrative Analyst, or equivalent, Legal Affairs, has delegated authority pursuant to paragraph 7(a) [written notice to the person who made the request as to whether or not access to the record or a part thereof will be given] and section 9 [extension of time limits] of the *Access to Information Act*.

V.1 Requests Received and Carried Forward

In fiscal year 2022–23, PSP received a total of four new requests under the *Access to Information Act*. This represents a **43%** decrease from the 2021–22 total of seven.

The number of requests carried forward decreased from 4 in 2021–22 to 3 in 2022–23. The requests were carried over as a result of the date they were received (March 2023).

Figure 1 shows how many ATI requests PSP received each year and how many were completed for 2018–19 to 2022–23.

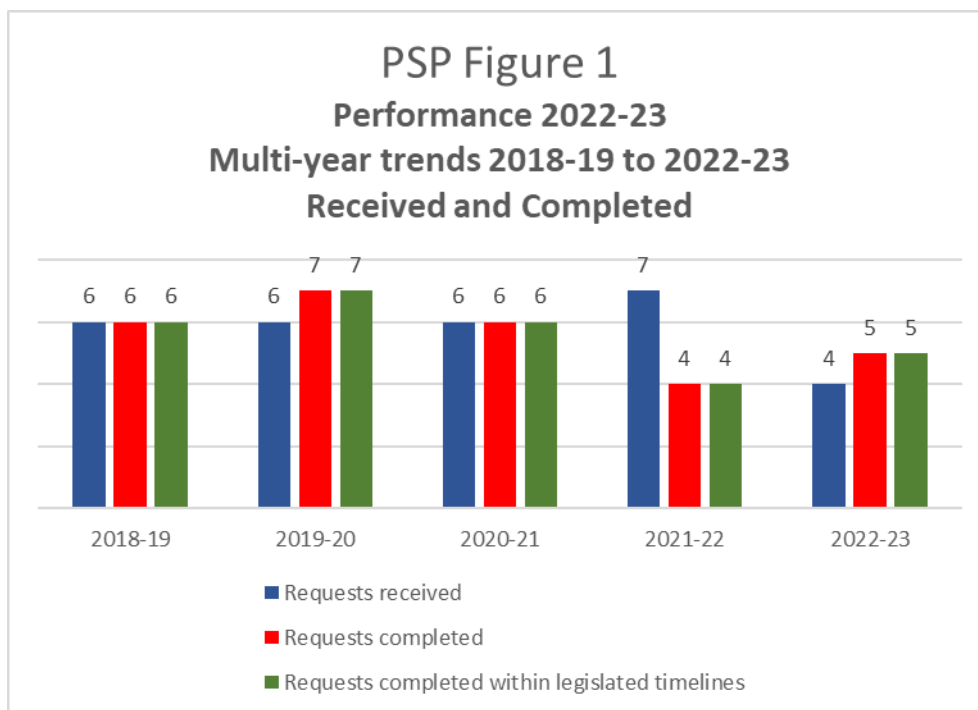
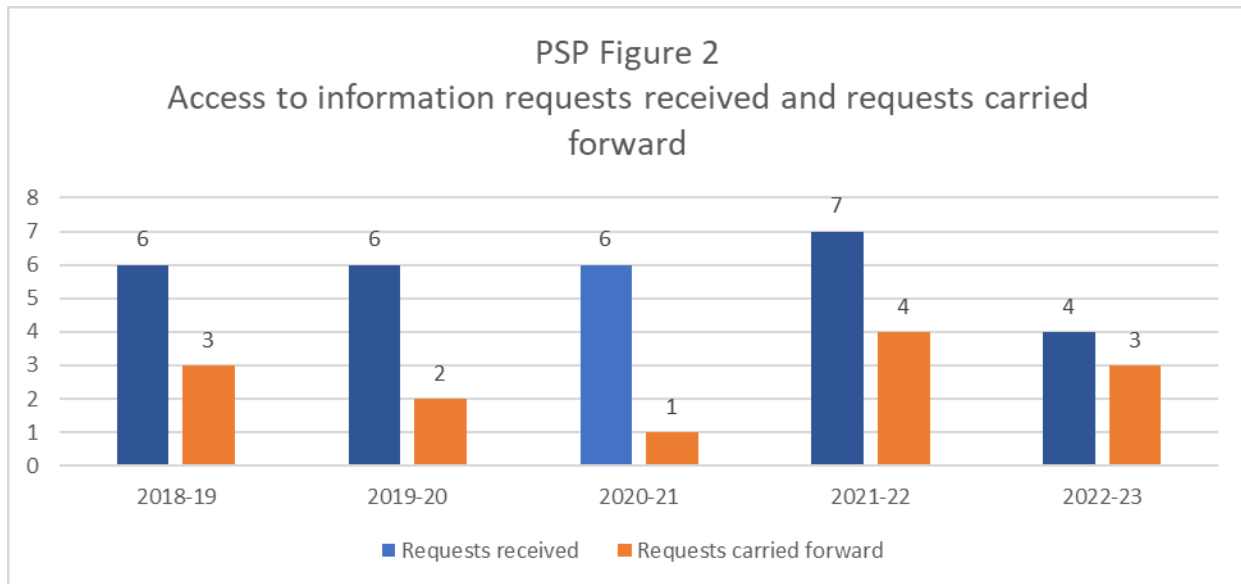


Figure 2 shows how many ATI requests PSP received each year and how many were carried forward for 2018–19 to 2022–23.

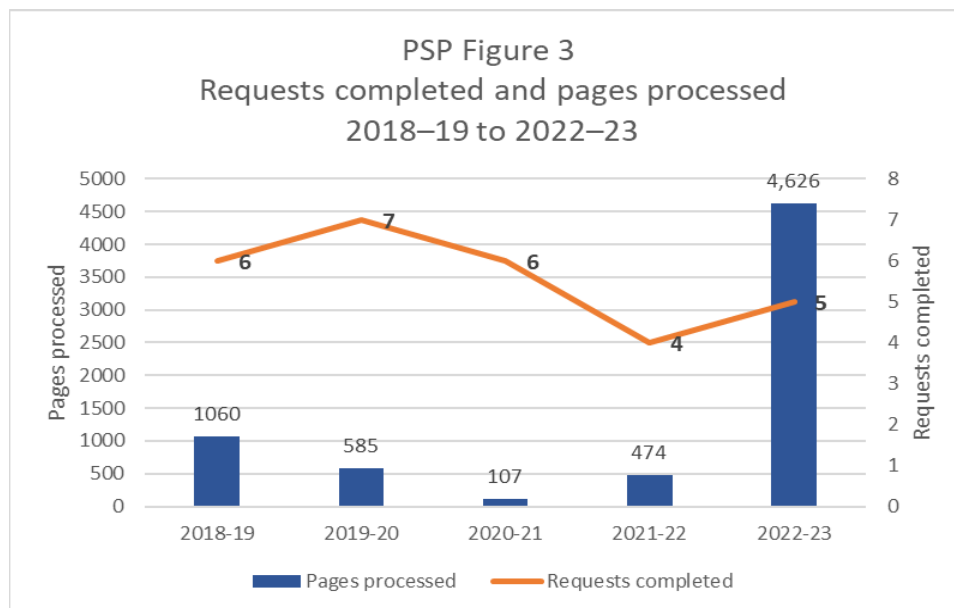


All requests carried forward (3) were received in fiscal year 2022-23. At the time of completion of this report, all of them were already closed within legislated timelines.

V.2 Requests Completed and Pages Processed

PSP completed 5 ATI requests in 2022–23, representing **4,626** pages processed. This is an increase of **+897.60%** in pages processed in 2022-23 compared with the previous year, even though ATI requests managed fell by 43% between last year and this year.

Figure 3 shows, for 2018–19 to 2022–23, the number of ATI requests PSP processed each year and the number of pages it dealt with for these requests.



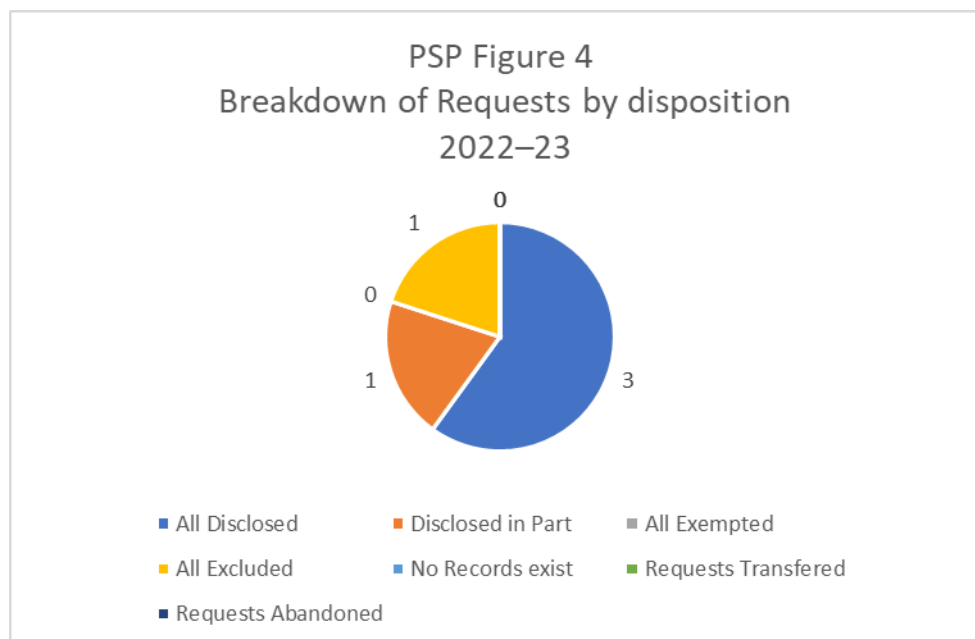
V.3 Disposition of Requests, Exemptions and Exclusions

Disposition of Requests

In 2022–23, there were no ATI requests abandoned by applicants and none for which PSP had no documents.

As for the ATI requests for which documents were provided, for three of them, the documents were fully disclosed without being redacted;¹⁸ for one of them, the documents were partially disclosed; and for one of them, the records were fully excluded because the information sought was publicly available.

Figure 4 shows the breakdown of ATI requests by disposition for 2022–23.



Exemptions

The *Access to Information Act* exempts certain information from disclosure. In fiscal 2022–23, one set of documents (20%) was exempted under the Act and therefore not fully disclosed because the documents requested contained the following:

- financial, and/or commercial information that belongs to the Government of Canada or a government institution and has substantial value or is reasonably likely to have substantial value (paragraph 18 (a) of the Act).

¹⁸ In accordance with several Supreme Court of Canada decisions, the *Access to Information Act* must be interpreted broadly and liberally in order to create a meaningful right of access to government information. Among others, *Canada (Information Commissioner) v. Canada (Minister of National Defence)*, 2011 SCC 25, [2011] 2 S.C.R. 306 at par. 54.

- information the disclosure of which could reasonably be expected to prejudice the competitive position of a government institution or to interfere with contractual or other negotiations of a government institution (paragraph 18 (b) of the Act).
- financial and/or commercial information that belongs to, and has consistently been treated as confidential by, PSP (paragraph 18.1(1)(c) of the Act).
- advice or information relating to investment which the PSP has obtained in confidence from a third party if the PSP has consistently treated such advice or information as confidential (section 20.1 of the Act).

The ATI request fell within the PSP's mandate. Consequently, the documents were only partially disclosed due to the nature of PSP's business, which involves competitively sensitive information. Had they been disclosed, this information would have revealed to PSP's competitors recent changes in the composition of PSP's asset mix and would have enabled them to reproduce PSP's proprietary strategy at no cost, thus granting them an unfair advantage.

Exclusions

The *Access to Information Act* does not apply to or excludes Cabinet confidences and confidences of the Privy Council (section 69 of the Act). In addition, documents accessible to the public (for example, government publications such as annual reports and documents held in libraries) are also excluded (paragraph 68(a) of the Act). In 2022–23, one set of documents (20%) requested was excluded under paragraph 68(a) of the Act because the information requested was publicly available. The remaining information sought in three other ATI requests was fully disclosed. As a result, in **80%** of the files closed, the requesters had full access to the information relating to PSP.

The PSP ATIP office also receives inquiries from the public on how and where to obtain information under the *Access to Information Act* or the *Privacy Act*. PSP redirects some of these requests to other federal government institutions and, occasionally, to provincial Freedom of Information and Privacy offices. These are not counted as requests for the purposes of this report.

V.4 Monitoring Compliance

As evidenced by a **100%** on-time compliance rate year after year, PSP ATIP staff closely monitor the *time it takes to process* ATI requests. Compliance is ensured on an on-going basis through the use of an ATI request tracking system and weekly reports to PSP's Senior Director of Legal Affairs. In addition, PSP *limits inter-institutional consultations* to cases where they are necessary for proper exercise of discretion, or where there is an intention to disclose. To this end, PSP fully adheres to the implementation guidelines issued by TBS which specify that inter-institutional consultations on ATI requests should only take place where necessary, and to restrict the scope of such consultations. Follow-up is conducted on an on-going basis, and reports are produced via PSP's ATI request tracking system. The same applies to informal ATI requests, where PSP *reviews requested types of information and assesses the feasibility* of making this information available by other means.

In conjunction with this, PSP ensures that *measures to support the public's right of access to information* are reflected in contracts, information-sharing agreements, and information-sharing arrangements in accordance with section 4.2.8 of the TBS *Directive on Access to Information Requests*.¹⁹ To this purpose, PSP ATIP office is integrated with the PSP Legal Team, and staff work in collaboration with colleagues in the PSP Legal-Commercial Team. This work is done under the supervision of the PSP Senior Director, Legal Affairs. Monitoring is done on an ad-hoc basis.

In addition, PSP closely *monitors the accuracy and completeness of proactively* published information under Part 2 of the Act. To this end, ATIP staff work closely with PSP's Managing Director and Corporate Controller. Monitoring is conducted at the time of reporting (on a monthly basis). This work is performed under the supervision of PSP's Senior Director, Legal Affairs.

Finally, the ATIP office produces a variety of regular and ad hoc reports to monitor PSP's compliance with the *Access to Information Act* and *Privacy Act* through the quarterly review of key performance indicators.

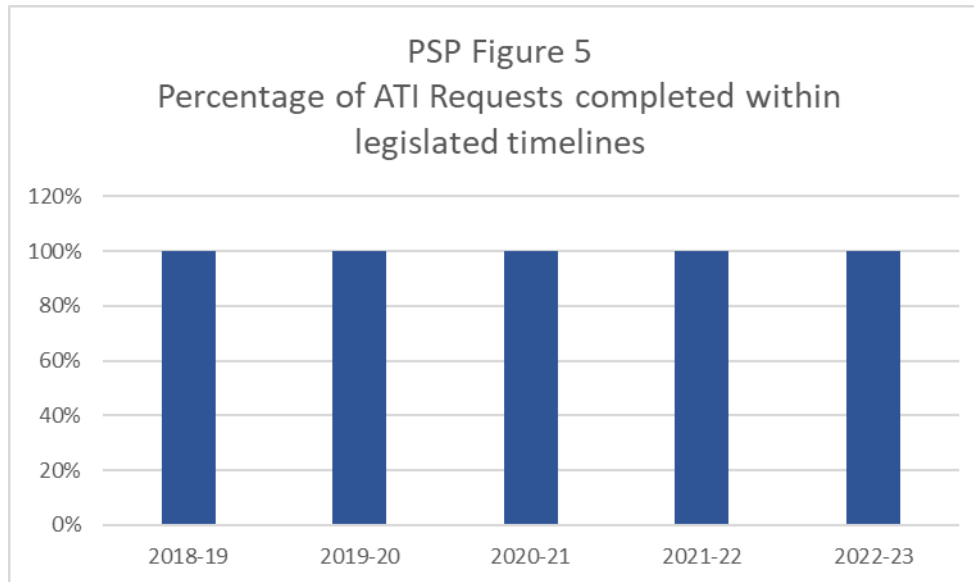
V.4.1 On-Time Compliance Rate

The on-time compliance rate is the percentage of ATI requests responded within their statutory deadlines, including requests for which PSP had recourse to legislative extensions.

In fiscal year 2022–23, PSP ATIP office achieved a **100%** on-time compliance rate. These results were achieved through rigorous file management, and regular briefings with PSP officials.

Figure 5 shows the percentage of requests completed within legislated timelines, 2018-19 to 2022-23.

¹⁹ <https://www.tbs-sct.canada.ca/pol/doc-eng.aspx?id=18310> .



V.4.2 Extensions

The legislation sets timelines for responding to ATI requests and allows for extensions in the following cases: when complying with the timeline would result in interference with operations, when a consultation with other institutions is required, or when a third-party consultation is required.

In fiscal year 2022–23, PSP sought extension in one instance (20%) because the request necessitated a search through a large number of records and meeting the original time limit would have unreasonably hampered PSP’s operations.

Figure 6 shows the average number of pages processed per completed request, percentage of completed requests that required an extension, and the on-time compliance rate, for fiscal years 2018-19 to 2022-23.

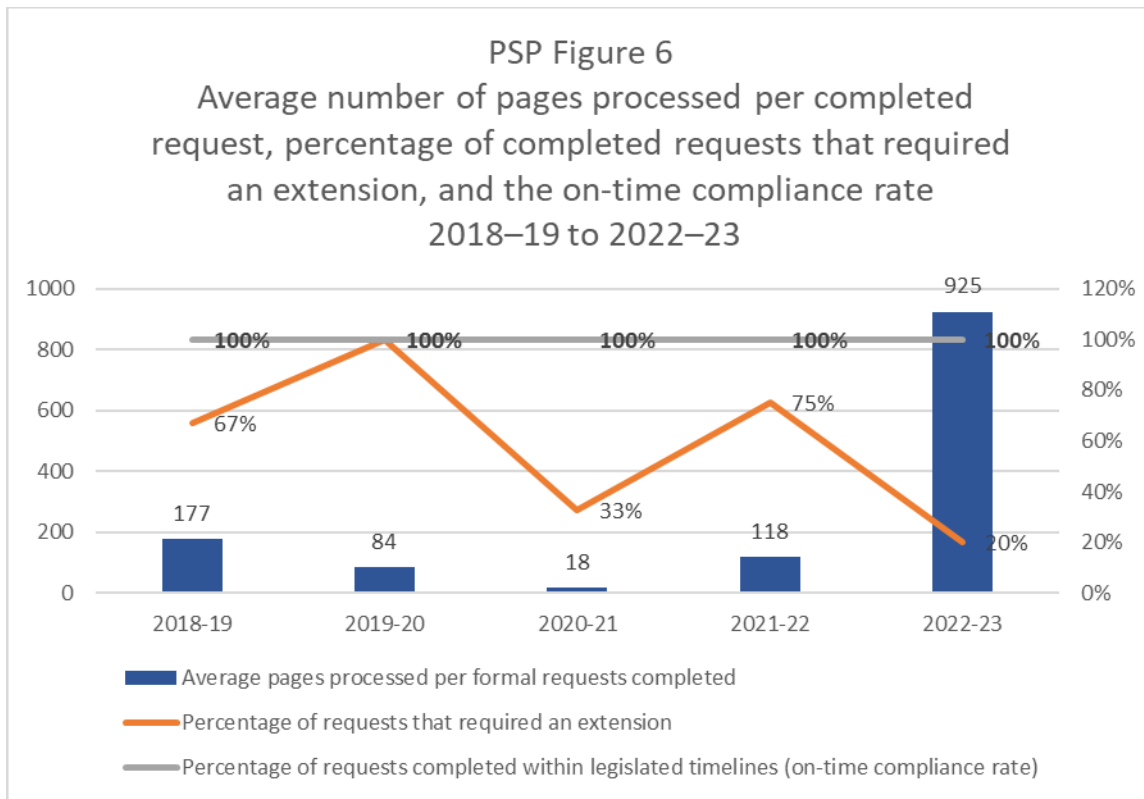
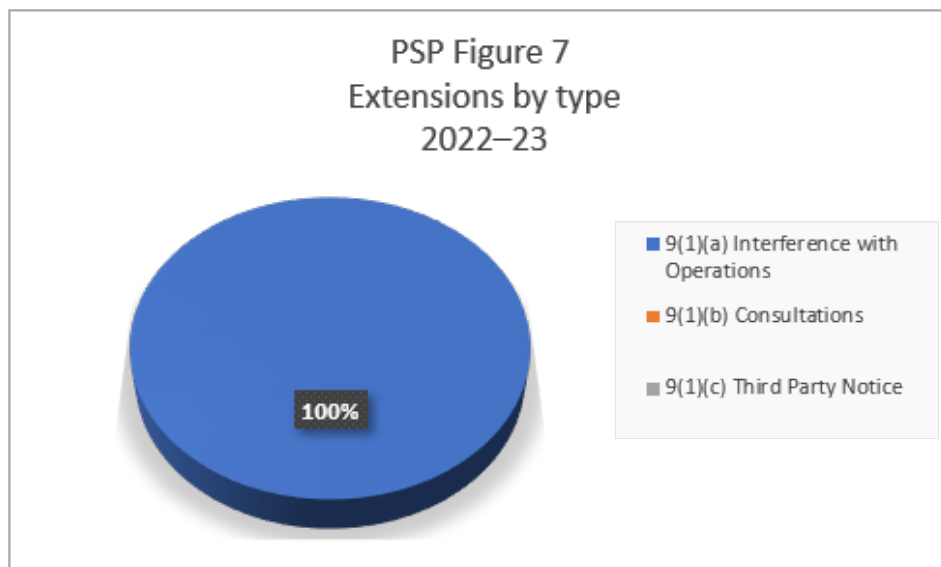


Figure 7 shows the distribution of the diverse types of extensions.

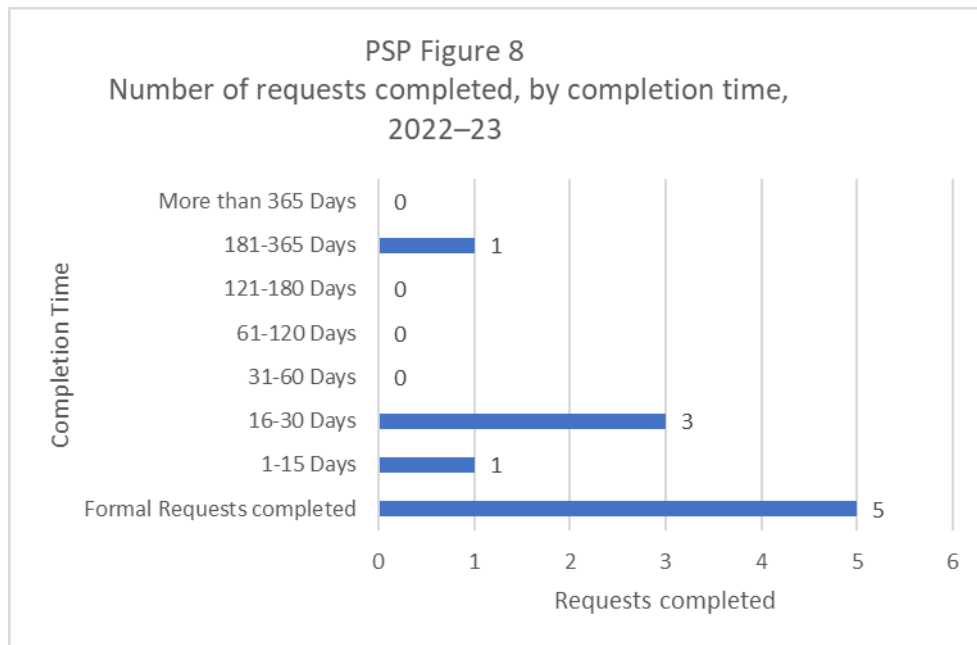


V.4.3 Completion Times

Of the five requests closed this year, **80%** were closed within 30 days.

No requests took over one year to close.

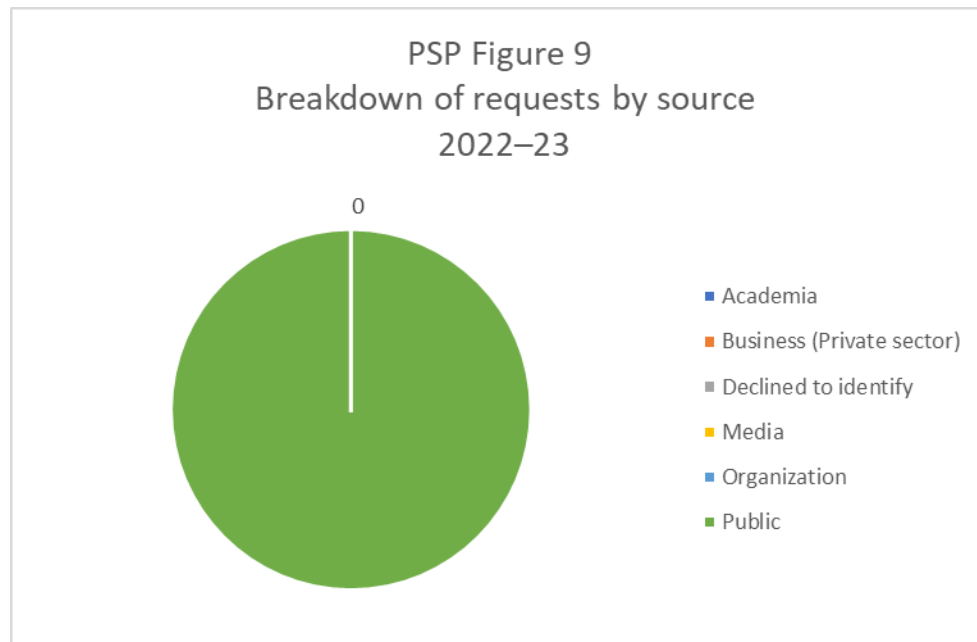
Figure 8 shows the number of requests completed within each completion time.



V.5 Sources of requests

Of the four ATI requests received in fiscal year 2022-23, all came from the public. No requests were submitted by the media, businesses, academia, organizations, or individuals who declined to identify themselves.

Figure 9 shows the distribution of requests received from each source type.



V.6 Format of Information Released

In fiscal year 2022–23, the ATIP office released information in electronic format for all closed requests.

V.7 Informal Requests

As part of its objective to provide Canadians with relevant information in an informal and timely manner, and in the spirit of transparency and open government, PSP processes informal requests for information. These requests are not subject to the *Access to Information Act*. During fiscal year 2022–23, the ATIP office responded to ten informal requests totalling 10,439 pages.

V.8 Consultations

PSP receives consultation requests from other federal institutions relating to ATI requests for PSP documents or issues. During fiscal year 2022–23, PSP received one consultation request. There were no outstanding consultation requests from the previous reporting period. This year's request represented a total of ten pages of information.

V.9 Other Factors which Affected the Activities of PSP ATIP Office

V.9.1 Impact of COVID-19 Pandemic on ATIP Office Operations

The activities of the PSP ATIP Office were unaffected during the period covered by this report.

V.9.2 Impact of Parliamentary Committee Activities on PSP ATIP Office

On January 18, 2023, the Standing Committee on Government Operations and Estimates ("Committee") issued a document production order that applies to federal departments, agencies and Crown Corporations that entered into any form of contract with McKinsey and Company ("McKinsey") between January 1, 2011, and January 25, 2023. PSP did enter into contracts with McKinsey during the production period.

With regards to the production order, the PSP ATIP office was tasked with retrieving records and organizing and coordinating the submissions to be presented to the Committee. Although this response to the production order does not fall within the realm of the *Access to Information Act*, the PSP ATIP office was instructed to prepare PSP documents in accordance with the underlying principles of the *Access to Information Act*. As a result, over 10,000 pages of documents were retrieved and have been or are currently being processed in parallel with regular ATIP operations.

Responding to the Committee's production order is a priority, and the PSP ATIP Office is making every effort to manage both the requirements of the *Access to Information Act* and the Committee's order.

V.10 Training and Awareness

Training

In fiscal 2022–23, the PSP ATIP office continued to expand its outreach activities and offered training sessions to all new PSP employees and consultants through the PSP On-boarding program (e-learning). In addition, informal information sessions, one-on-one training, and orientation sessions were provided, as required.

Awareness

To mark Data Privacy Day held on January 28, 2023, PSP ATIP office promoted the importance of sound privacy management practices and shared responsibility for protecting personal information in day-to-day activities through various awareness-raising activities and a panel discussion attended by over 140 participants.

For its *Privacy Awareness Week 2023*, PSP campaign focused on “*privacy as an enabler*.” The aim was to show how personal data is interwoven into many aspects of PSP's daily operations, to promote both collaboration between departments and the work of the ATIP office. The other facet of the promotion took place online. In addition to email communication about the event, an article was published at the beginning of the week, which included a link to a contest. This article was accompanied by a launch email. This was followed, at the end of the week, by an article summarizing the main findings of this training initiative.

V.11 Initiatives, Policies, Guidelines, and Procedures

V.11.1 2022-23 Initiatives

- **ATIP Online Request Service**

As part of its commitment to openness and transparency, PSP is providing simpler and more efficient ATI through its participation to the TBS ATIP Online Request Service (“AORS”).²⁰ Once fully implemented, AORS will be a central website where Canadians can submit ATI and personal information requests to government institutions. In 2022-23, PSP requested TBS to update the list of its Wholly-Owned Subsidiaries which appear in the AORS system. The AORS streamlines the process of requesting information and is part of a series of key actions PSP is taking to improve ATI in ways that have an immediate impact. This platform also allows international users to submit *Privacy Act* requests. Through its participation and leadership, PSP aims to improve transparency; ATI services; processes and timeliness. PSP provides benefits to all Canadians

²⁰ <https://atip-aiprp.apps.gc.ca/atip/welcome.do>

through its contribution to the improvement of the ATIP online user experience, by making it easier for Canadians to access government institution information via a simple, central website, where they can submit requests to government institutions covered by the *Access to Information Act*.

▪ **ATIP Online Management Tool**

Starting in April 2022, TBS has enrolled PSP and its Wholly-Owned Subsidiaries in the implementation of the ATIP Online Management Tool (“AOMT”) pilot project. The AOMT is a request management system designed to enable institutions to access and retrieve ATI and privacy requests and provide responses to completed requests. As with any pilot project, AOMT proved to be a challenge for the PSP ATIP Office. By contributing to the improvement of AOMT, PSP is bringing benefits to all Canadians.

▪ **Access to Information Review to Parliament**

The *Access to Information Act* enhances the accountability and transparency of Canada’s federal institutions. It is in place to create a more open and democratic society by providing all Canadians with valuable information and encouraging public engagement with their government. In 2019, Parliament passed Bill C-58, an *Act to amend the Access to Information Act and the Privacy Act* and to make consequential amendments to other Acts, the first major reform to this law in over 30 years and established a regular review of the Act. Between February 2022 and December 2022, PSP ATIP staff monitored progress in this area which culminated, in December 2022, with the presentation to Parliament, by the President of the TBS, the first of such review. It was informed by an open, accessible, and inclusive engagement process with feedback from Canadians, Indigenous governing bodies and organizations, experts, access to information advocates, provincial and territorial governments, and federal Information and Privacy Commissioners. Through an examination of the legislation, policies, practices, and processes, the report outlines key areas of focus to achieve three main strategic outcomes:

- Improving service to Canadians as it relates to ATI.
- Increasing trust and transparency in institutions.
- Advancing reconciliation with Indigenous peoples.

The areas covered by the report recognize that openness, transparency, and accountability are guiding principles of the Government of Canada. By participating, commenting, and monitoring changes, PSP ATIP staff contribute fully to the continuous improvement of the *Access to Information Act*, to the benefit of all Canadians.

- **Access to Information and Privacy Community Development**

The Access to Information and Privacy Community Development Office (“APCDO”) contributes to the development and sustainability of the ATI and privacy communities via recruitment, retention, learning, networking, and partnership activities with a spirit of diversity, inclusivity, and accessibility through community engagement. Whenever possible, the PSP ATIP Office contributes to the APCDO. PSP aims to strengthen the ATIP community, ATI services, processes, and timeliness. Through its contribution to APCDO, PSP helps strengthen the ability of ATIP Offices to provide Canadians with timely access to government institution information by attracting new talents to ATIP Offices and providing ATIP professionals with centralized training and professional development programs, to the benefit of all Canadians.

Development of government-wide training tools to support the ATIP communities. The APCDO started offering onboarding sessions to new ATIP professionals as well as training sessions on specific sections of the *Access to Information Act*. The PSP ATIP Office enthusiastically participated to these training sessions. Through this participation, PSP contributes to strengthening the ATIP community; ATI services; processes and timeliness. Through its contribution to APCDO, PSP supports training and professional development of the ATIP communities which help increase the capacity of ATIP offices to provide access to government institution information in a timely manner, to the benefit of all Canadians.

Renewal of the Standard on Metadata. In Spring 2022, PSP ATIP staff participated to the TBS *Symposium on Metadata* which was held with participants and panelists from government, academia, and private sector. The event was intended to understand the current environment on metadata. The objective of the renewal is to develop a new Standard that will ensure metadata-related requirements for both information and data are updated to reflect current and future information and data management practices and technologies. Through its interest, PSP assists in strengthening the ATIP community; processes; and timeliness, to the benefit of all Canadians.

V.11.2 Revised Policies, Guidelines, and Procedures

In 2022-23, as described above:

- A new AOMT manual was adopted.
- Revised AORS procedures were implemented.

There were no other “*new or revised*” policies, guidelines and procedures in 2022-23.

V.11.3 2023-24 Upcoming Initiatives

In fiscal 2023-24 the PSP ATIP Office intends to participate to:

- **Updating the TBS Access to Information Manual** for ATIP practitioners to guide and standardize ATIP community practices, including in support of more inclusive right of access. *Improvements sought:* Advancing Indigenous Reconciliation; Strengthening the ATIP community; Transparency; ATI services; Processes and timeliness. *Benefits sought:* If possible, PSP staff will assist in ensuring that ATIP practitioners have the tools to deliver a consistent client-centered service to individuals that are seeking to exercise their right of access.

In addition, the PSP ATIP Office intends to participate in the following:

- **Exploring the development of guidance** to government institutions to reduce administrative and financial barriers to access to government information by Indigenous requesters or those acting on their behalf. *Improvements sought:* Advancing Indigenous Reconciliation; Strengthening the ATIP community; Transparency; ATI services; Processes and timeliness. *Benefits sought:* In the spirit of Canada's commitment to reconciliation with Indigenous Peoples and to promote substantive equality, PSP staff will assist in policy change which would aim at facilitating access to government information for Indigenous requesters or those acting on their behalf.
- **Reviewing the approach to the annual statistical reporting** required under the *Access to Information Act* to continue to better identify systemic issues in a manner that considers the reporting challenges for institutions. *Improvements sought:* Strengthening the ATIP community; and Transparency. *Benefits sought:* If possible, the PSP ATIP Office will assist in improving reporting by government institutions on the administration of the *Access to Information Act* to better track ongoing trends and help identify shortcomings.
- **Launching a working group with the proactive publication** community to help guide the creation of additional guidance on proactive publication as per Part 2 of the *Access to Information Act*. *Improvements sought:* Strengthening the ATIP community; and Transparency. *Benefits sought:* If possible, PSP ATIP staff will assist in facilitating information-sharing of best practices on proactive publication and will support the development of guidance to help institutions improve their compliance with proactive publication requirements under Part 2 of the *Access to Information Act*.

- **Updating the *Access to Information Regulations*** to ensure consistency with the *Access to Information Act*, following the 2019 legislative changes, and with the current practices and requirements on identification verification. *Improvements sought:* Strengthening the ATIP community; Transparency; and ATI services. *Benefits sought:* If possible, through the contribution of the PSP ATIP Office, PSP will ensure consistency between the *Access to Information Regulations* and the *Access to Information Act* as well as between the *Access to Information Regulations* and the *Privacy Regulations* as it relates to identity validation requirements.
- **Examining and implementing options for raising awareness** and providing training to the ATIP community related to Indigenous peoples and their specific ATI considerations. *Improvements sought:* Advancing Indigenous Reconciliation; Strengthening the ATIP community; and ATI services. *Benefits sought:* If possible, through the contribution of PSP ATIP staff, PSP will help ensure that ATIP professionals have the essential cultural competency required to better deliver culturally appropriate services to Indigenous Peoples.

VI. Information About Programs and Information Holdings

Pursuant to section 5 of the *Access to Information Act*, PSP publishes an inventory of its information holdings, as well as relevant details about personal information under its control. The primary purpose of this inventory is to assist individuals in exercising their rights under the *Access to Information Act*. It also supports the federal government's commitment to facilitate ATI on its activities, since it is available to the public on the Internet, free of charge.

A description of PSP's functions, programs, activities, and related information holdings can be found on PSP's website.²¹

VII. Complaints

VII.1 Complaints Received

Requesters may file a complaint with the Office of the Information Commissioner of Canada (OIC) if they are dissatisfied with the processing of their request. In fiscal year 2022–23, PSP was informed of one complaint received by the OIC.

²¹ <https://www.investpsp.com/en/>

Table 1: Complaints received, by type, 2022–23

Type of complaint	Numbers of complaints
Time limits	0
Delay: deemed refusal	0
Refusal: exemptions	1
Refusal: exclusion	0
Refusal: missing records	0
Miscellaneous	0
Total	1

VII.2 Complaints Closed

In May 2022, the OIC initiated an investigation into a complaint filed under the *Access to Information Act* in response to PSP's refusal to provide access to records based on certain exemptions under the law. The request was for a complete list of entities in which PSP was an investor as of March 31, 2021.

PSP applied paragraph 18(b)²² of the *Access to Information Act*, concurrently with paragraph 18(a)²³ and paragraph 18.1(1)(c)²⁴ and section 20.1²⁵ of the Act, to withhold some of the information responsive to the request.

The OIC dismissed the complaint on March 13, 2023.²⁶ Based on the representations received and a review of the records, the OIC determined that the release of the information at issue could reasonably be expected to injure PSP's competitive position and interfere with its ongoing and future negotiations. More particularly, disclosure of the information could allow discernment of PSP's investment strategies which could, consequently, threaten its competitive position. Since the information met the requirements of the paragraph 18(b) exemption, the OIC did not examine the other exemptions that PSP applied to the same information. The Complainant did not apply to the Federal Court (Trial Division) and did not seek judicial review. As a result, the complaint received in 2022-23 was closed before the end of the fiscal year, and the

²² In this instance, information the disclosure of which could reasonably be expected to prejudice the competitive position of a government institution or to interfere with contractual or other negotiations.

²³ In this case, financial, commercial, and technical information that belongs to PSP and has substantial value or is reasonably likely to have substantial value.

²⁴ Financial, commercial, and technical information that belongs to, and has consistently been treated as confidential by PSP.

²⁵ Advice or information relating to investment that PSP has obtained in confidence from a third party if PSP has consistently treated the advice or information as confidential.

²⁶ PSP file number # A-2022-01. OIC file number 5822-00924.

OIC's decision sets a precedent on which PSP is now relying to interpret and apply, the *Access to Information Act*.

Table 2: Complaints closed by the OIC in 2022–23

Disposition of complaint	Numbers of findings	Type of complaint
Not well-founded	1	Exemptions: 1
Discontinued	0	N/A
Well-founded	0	N/A
Total	1	

VII.3 Active Complaints

Since October 2011, the OIC has been investigating two complaints filed under the *Access to Information Act* in response to PSP's refusals to provide access to records requested in 2009, based on certain exemptions under the law. The first request concerned documents relating to PSP's investments in the Lonestar funds, and the second request concerned all notes and minutes of the meetings of the Board of Directors of PSP and its subsidiaries between 2004 and 2009 dealing "*with investments, benchmarks, asset classes ... as well as performance bonuses and VaR*".²⁷ In 2022-23, the OIC has not yet acted on these complaints. Based on the precedent set on March 13, 2023, it is highly likely that these complaints, which are similar to those described here, will be dropped in 2023-24. For more information PSP-specific exemptions under the *Access to Information Act*, please see **Appendix E**.

VIII. Court Cases

There have been no court cases against PSP in relation to the *Access to Information Act* or the *Privacy Act* since 2004.

IX. Fees and Costs

IX.1 Fees

Application fees refer to fees collected, waived, and refunded that relate to all requests received, active or closed during the reporting period. Application fees were received through TBS' AORS. As the TBS AORS does not report for these fees, please note that the fees were sent to the Receiver General on behalf of the PSP. With respect to the \$5.00 application fee collected by the TBS AORS for making a request under

²⁷ "VaR" means *Value-At-Risk*. Value-at-risk is a statistical measure of the riskiness of financial entities or portfolios of assets. It is defined as the maximum dollar amount expected to be lost over a given time horizon, at a pre-defined confidence level.

the *Access to Information Act*, the total revenue collected was \$20.00. No application fees were waived as provided for in paragraph 7(1)(a) of the *Access to Information Regulations*.²⁸

IX.2 Costs

In 2022–23, PSP’s total cost for administering the *Access to Information Act* was \$233,183. The PSP ATIP office incurred \$52,124 in salary costs and \$181,060 in professional services contracts costs. It should be noted that these costs do not include resources expended by PSP program areas to meet the requirements of the Act.

²⁸ <https://laws-lois.justice.gc.ca/PDF/SOR-83-507.pdf> .

Appendix A: List of relevant Wholly-Owned Subsidiaries

PUBLIC SECTOR PENSION INVESTMENT BOARD / OFFICE D'INVESTISSEMENT DES RÉGIMES DE PENSIONS DU SECTEUR PUBLIC			
RELEVANT WHOLLY-OWNED SUBSIDIARIES (as of March 31, 2023) FILIALES À PROPRIÉTÉ EXCLUSIVE CONCERNÉES (au 31 mars 2023)			
	Name of Subsidiary / Nom de la filiale	French Version in Corporate Name / Version française de la dénomination sociale	French Business Name / Nom de l'entreprise en français
1.	14602889 Canada Inc.	N/A	N/A
2.	3Net Indy Holdings Inc.	N/A	Gestion 3Net Indy
3.	3Net Indy Investments Inc.	N/A	Investissements 3Net Indy
4.	7986386 CANADA INC.	N/A	N/A
5.	8599963 Canada Inc.	N/A	N/A
6.	Argentia Private Investments Inc.	N/A	Argentia Investissements Privés
7.	AviAlliance Canada Inc.	N/A	N/A
8.	Belle Bay Private Investments Inc.	N/A	Investissements Privés Belle Bay
9.	Blue & Gold Private Investments Inc.	N/A	Blue & Gold Investissements Privés
10.	Datura Private Investments Inc.	N/A	Datura Investissements Privés
11.	Downsview Metro Devco Inc.	N/A	Gestion Downsview Métro Devco
12.	FirstLight Holding Inc.	N/A	N/A
13.	Galvaude Private Investments Inc.	N/A	Investissements Privés Galvaude
14.	Indo-Infra Inc.	N/A	Gestion Indo-Infra
15.	Infra TM Investments Inc.	N/A	Investissements Infra TM
16.	Infra-PSP Canada Inc.	N/A	N/A
17.	Infra-PSP Credit Inc.	N/A	Infra-PSP Crédit
18.	Infra-PSP ECEF Inc.	N/A	N/A
19.	Infra-PSP Partners Inc.	N/A	Infra-PSP Associés
20.	Ivory Private Investments Inc.	N/A	Ivory Investissements Privés
21.	Kings Island Private Investments Inc.	N/A	Kings Island Investissements Privés
22.	Northern Fjord Holdings Inc.	N/A	Gestion Northern Fjord
23.	Port-aux-Choix Private	N/A	Port-aux-Choix

PUBLIC SECTOR PENSION INVESTMENT BOARD / OFFICE D'INVESTISSEMENT DES RÉGIMES DE PENSIONS DU SECTEUR PUBLIC			
RELEVANT WHOLLY-OWNED SUBSIDIARIES (as of March 31, 2023) FILIALES À PROPRIÉTÉ EXCLUSIVE CONCERNÉES (au 31 mars 2023)			
	Name of Subsidiary / Nom de la filiale	French Version in Corporate Name / Version française de la dénomination sociale	French Business Name / Nom de l'entreprise en français
	Investments Inc.		Investissements Privés
24.	Potton Holdings Inc.	N/A	Gestion Potton
25.	PSP Capital Inc.	N/A	N/A
26.	PSP FINCO Inc.	N/A	N/A
27.	PSP FINCO LATAM INC.	N/A	Gestion PSP Finco Latam
28.	PSP Investments Asia Limited	N/A	N/A
29.	PSP Investments Canada Inc. / Investissements PSP Canada Inc.	Investissements PSP Canada Inc.	N/A
30.	PSP Investments Holding Europe Ltd	N/A	N/A
31.	PSP Investments USA LLC	N/A	N/A
32.	PSP Public Credit I Inc.	N/A	PSP Crédit Public I
33.	PSP Public Credit Opportunities Inc.	N/A	Opportunités de Crédit Public PSP
34.	PSP Public Markets Inc.	N/A	PSP Marchés Publics
35.	PSPIB Bromont Investments Inc.	N/A	Investissements PSPIB Bromont
36.	PSPIB CLUSTER INVESTMENTS INC.	N/A	Investissements PSPIB Cluster
37.	PSPIB Deep South Inc.	N/A	Gestion PSPIB Deep South
38.	PSPIB DevCol Inc.	N/A	Gestion PSPIB DevCol
39.	PSPIB Emerald Inc.	N/A	Gestion PSPIB Emerald
40.	PSPIB G.P. Finance Inc.	N/A	PSPIB Commandité Finance
41.	PSPIB G.P. Inc.	N/A	PSPIB Commandité
42.	PSPIB G.P. Partners Inc.	N/A	PSPIB Commandité Associés
43.	PSPIB GIPP D1 Inc.	N/A	N/A
44.	PSPIB Golden Range Cattle II Inc.	N/A	Gestion PSPIB Golden Range Cattle II
45.	PSPIB Golden Range Cattle Inc.	N/A	Gestion PSPIB Golden Range Cattle

PUBLIC SECTOR PENSION INVESTMENT BOARD / OFFICE D'INVESTISSEMENT DES RÉGIMES DE PENSIONS DU SECTEUR PUBLIC			
RELEVANT WHOLLY-OWNED SUBSIDIARIES (as of March 31, 2023) FILIALES À PROPRIÉTÉ EXCLUSIVE CONCERNÉES (au 31 mars 2023)			
	Name of Subsidiary / Nom de la filiale	French Version in Corporate Name / Version française de la dénomination sociale	French Business Name / Nom de l'entreprise en français
46.	PSPIB Homes Inc.	N/A	Gestion PSPIB Homes
47.	PSPIB LUNAR INVESTMENTS INC.	N/A	Investissements PSPIB Lunar
48.	PSPIB MEXICO GP INC.	N/A	Commandité PSPIB Mexico
49.	PSPIB Michigan G.P. Inc.	N/A	PSPIB Michigan Commandité
50.	PSPIB Orchid Inc.	N/A	Gestion PSPIB Orchid
51.	PSPIB Paisas Inc.	N/A	Gestion PSPIB Paisas
52.	PSPIB Pennsylvania Investments Inc.	N/A	Investissements PSPIB Pennsylvania
53.	PSPIB Realty International Inc. / PSPIB Immobilier International Inc.	PSPIB Immobilier International Inc.	N/A
54.	PSPIB Stanley Investments Inc.	N/A	N/A
55.	PSPIB Steam Investments Inc.	N/A	Investissements PSPIB Steam
56.	PSPIB THOR INVESTMENTS INC.	N/A	Investissements PSPIB Thor
57.	PSPIB Unitas Investments II Inc.	N/A	N/A
58.	PSPIB Unitas Investments Inc.	N/A	N/A
59.	PSPIB WEXFORD INVESTMENTS INC.	N/A	Investissements PSPIB Wexford
60.	PSPIB-AI Investments Inc.	N/A	Investissements PSPIB-AI
61.	PSPIB-Andes Inc.	N/A	Gestion PSPIB-Andes
62.	PSPIB-ARE CANADA INC.	N/A	Gestion PSPIB-ARE CANADA
63.	PSPIB-ARE SERVICES INC.	N/A	SERVICES PSPIB-ARE
64.	PSPIB-Condor Inc.	N/A	N/A
65.	PSPIB-Eldorado Inc.	N/A	Gestion PSPIB- Eldorado

PUBLIC SECTOR PENSION INVESTMENT BOARD / OFFICE D'INVESTISSEMENT DES RÉGIMES DE PENSIONS DU SECTEUR PUBLIC			
RELEVANT WHOLLY-OWNED SUBSIDIARIES (as of March 31, 2023) FILIALES À PROPRIÉTÉ EXCLUSIVE CONCERNÉES (au 31 mars 2023)			
	Name of Subsidiary / Nom de la filiale	French Version in Corporate Name / Version française de la dénomination sociale	French Business Name / Nom de l'entreprise en français
66.	PSPIB-ILS INVESTMENTS INC.	N/A	Investissements PSPIB-ILS
67.	PSPIB-LSF Inc.	N/A	N/A
68.	PSPIB-RE FINANCE II INC.	N/A	Gestions PSPIB-RE Finance II
69.	PSPIB-RE Finance Inc.	N/A	N/A
70.	PSPIB-RE Finance Partners II Inc.	N/A	PSPIB-RE Finance Associés II
71.	PSPIB-RE Finance Partners Inc.	N/A	PSPIB-RE Finance Associés
72.	PSPIB-RE MANCHESTER INC.	N/A	Gestion PSPIB-RE Manchester
73.	PSPIB-RE Partners II Inc.	N/A	PSPIB-RE Associés II
74.	PSPIB-RE Partners Inc.	N/A	PSPIB-RE Associés
75.	PSPIB-RE UK Inc.	N/A	Gestion PSPIB-RE UK
76.	PSPIB-SDL Inc.	N/A	N/A
77.	PSPIB-Star Inc.	N/A	PSPIB-Étoile
78.	Red Isle Private Investments Inc.	N/A	Red Isle Investissements Privés
79.	Revera Inc.	N/A	N/A
80.	Sooke Investments Inc.	N/A	Investissements Sooke
81.	Trinity Bay Private Investments Inc.	N/A	Placements Privés Trinity Bay
82.	Vertuous Energy Canada Inc.	N/A	Énergie Vertuous Canada
83.	VOP Investments Inc.	N/A	Investissements VOP

It should be noted that *Revera Inc.* (line 79 above) is an active subsidiary. The reporting requirements of an active subsidiary are met by separate reports, prepared by Revera Inc.'s ATIP Coordinator. If you have any questions, please see: <https://www.tbs-sct.canada.ca/ap/atip-airp/coord-eng.asp> .

Appendix B: Delegation Order

**Public Sector Pension Investment Board
("PSPIB")
and its Wholly-Owned Subsidiaries**

Delegation Order ("Order")

(section 95(1), *Access to Information Act*,

R.S.C. 1985, c. A-1, as amended and section 73, *Privacy Act*, R.S.C. 1985, c. P-21, as amended)

1. This Order may be cited as the "PSPIB and wholly-owned subsidiaries of PSPIB Head of Institution Delegation Order pursuant to the *Access to Information Act* and *Privacy Act*".
2. Pursuant to Section 95(1) of the *Access to Information Act* and Section 73 of the *Privacy Act*, the undersigned, acting in her capacity of head of PSPIB, its Wholly-Owned Subsidiaries in existence as of the date of this Order as well as those which may hereafter be established, PSP Investments USA LLC, PSP Investments Holding Europe Ltd and PSP Investments Asia Limited (the "**Government Institutions**"), hereby designate the persons holding the positions set out in the schedule set forth in the attached Section 4 below, or the persons occupying on an acting basis those positions, to exercise her powers, duties and functions, under the provisions of the Acts and related regulations set out in the schedule opposite each position. This Delegation Order replaces all previous delegation orders for the Government Institutions.
3. For the purposes of this Order, "**Wholly-Owned Subsidiaries**" shall include all Canadian wholly-owned subsidiaries of PSPIB which are corporations, with the exception of those subsidiaries with their own heads.

This Delegation Order has been made in Montreal and is effective starting on the 1st day of September 2022.

DocuSigned by:



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Deborah K. Orida
President and CEO

4. Schedule

PSPIB
Delegation of Authority
Under the *Access to Information Act* and the *Privacy Act*

Position/Title	<i>Access to Information Act</i> and Regulations	<i>Privacy Act</i> and Regulations
Senior Vice President and Chief Legal Officer	Full authority	Full authority
Senior Director or Managing Director, Legal Affairs and ATIP Coordinator	Full authority	Full authority
Advisor/Senior Advisor/Counsel or equivalent, Access to Information and Privacy	Full authority	Full authority
Advisor/Senior Advisor/Counsel or equivalent, Privacy	Full authority	Full authority
Administrative Analyst or equivalent, Legal Affairs	Paragraph 7(a) Section 9	Paragraph 14(a) Section 15

Appendix C: Statistical Report



Government of Canada
Gouvernement du Canada

Statistical Report on the *Access to Information Act*

Name of institution: PSPIB and its Wholly-Owned Subsidiaries

Reporting period: 4/1/2022 to 3/31/2023

Section 1: Requests Under the *Access to Information Act*

1.1 Number of requests

		Number of Requests
Received during reporting period		4
Outstanding from previous reporting periods		4
• Outstanding from previous reporting period	4	
• Outstanding from more than one reporting period	0	
Total		8
Closed during reporting period		5
Carried over to next reporting period		3
• Carried over within legislated timeline	3	
• Carried over beyond legislated timeline	0	

1.2 Sources of requests

Source	Number of Requests
Media	0
Academia	0
Business (private sector)	0
Organization	0
Public	4
Decline to Identify	0
Total	4

1.3 Channels of requests

Source	Number of Requests
Online	4
E-mail	0
Mail	0
In person	0
Phone	0
Fax	0
Total	4

Section 2: Informal Requests

2.1 Number of informal requests

		Number of Requests
Received during reporting period		11
Outstanding from previous reporting periods		0
• Outstanding from previous reporting period	0	
• Outstanding from more than one reporting period	0	
Total		11
Closed during reporting period		10
Carried over to next reporting period		1

2.2 Channels of informal requests

Source	Number of Requests
Online	9
E-mail	2
Mail	0
In person	0
Phone	0
Fax	0
Total	11

2.3 Completion time of informal requests

Completion Time							
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	Total
2	2	0	6	0	0	0	10

2.4 Pages released informally

Less Than 100 Pages Released		100-500 Pages Released		501-1000 Pages Released		1001-5000 Pages Released		More Than 5000 Pages Released	
Number of Requests	Pages Released	Number of Requests	Pages Released	Number of Requests	Pages Released	Number of Requests	Pages Released	Number of Requests	Pages Released
6	5	0	0	0	0	1	4622	0	0

2.5 Pages re-released informally

Less Than 100 Pages Re-released		100-500 Pages Re-released		501-1000 Pages Re-released		1001-5000 Pages Re-released		More Than 5000 Pages Re-released	
Number of Requests	Pages Re-released	Number of Requests	Pages Re-released	Number of Requests	Pages Re-released	Number of Requests	Pages Re-released	Number of Requests	Pages Re-released
2	69	0	0	0	0	0	0	1	5,743

Section 3: Applications to the Information Commissioner on Declining to Act on Requests

	Number of Requests
Outstanding from previous reporting period	0
Sent during reporting period	0
Total	0
Approved by the Information Commissioner during reporting period	0
Declined by the Information Commissioner during reporting period	0
Withdrawn during reporting period	0
Carried over to next reporting period	0

Section 4: Requests Closed During the Reporting Period

4.1 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	1	3	0	0	0	0	0	4
Disclosed in part	0	0	0	0	0	1	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 transferred	0	0	0	0	0	0	0	0
Request abandoned	0	0	0	0	0	0	0	0
Neither confirmed nor denied	0	0	0	0	0	0	0	0
Declined to act with the approval of the Information Commissioner	0	0	0	0	0	0	0	0
Total	1	3	0	0	0	1	0	5

4.2 Exemptions

Section	Number of Requests	Section	Number of Requests	Section	Number of Requests	Section	Number of Requests
13(1)(a)	0	18(2)	0	18(a)	1	20.1	1
13(1)(b)	0	18(2)(a)	0	18(b)	1	20.2	0
13(1)(c)	0	18(2)(b)	0	18(c)	0	20.4	0
13(1)(d)	0	18(2)(c)	0	18(d)	0	21(1)(a)	0
13(1)(e)	0	18(3)	0	18.1(1)(a)	0	21(1)(b)	0
14	0	18.1(1)(a)	0	18.1(1)(b)	0	21(1)(c)	0
14(a)	0	18.1(1)(b)	0	18.1(1)(c)	1	21(1)(d)	0
14(b)	0	18.1(1)(c)	0	18.1(1)(d)	0	22	0
15(1)	0	18.1(1)(d)	0	19(1)	0	22.1(1)	0
15(1) - I.A.*	0	18.2(1)	0	20(1)(a)	0	23	0
15(1) - Def.*	0	18.3	0	20(1)(b)	0	23.1	0
15(1) - S.A.*	0	18.4(1)(a)	0	20(1)(b.1)	0	24(1)	0
16(1)(a)(i)	0	18.4(1)(b)	0	20(1)(c)	0	26	0
16(1)(a)(ii)	0	18.5	0	20(1)(d)	0		
16(1)(a)(iii)	0	18.6	0				
16(1)(b)	0	17	0				
16(1)(c)	0						
16(1)(d)	0						

* I.A.: International Affairs Def.: Defence of Canada S.A.: Subversive Activities

4.3 Exclusions

Section	Number of Requests	Section	Number of Requests	Section	Number of Requests
88(a)	1	89(1)	0	89(1)(g) re (a)	0
88(b)	0	89(1)(a)	0	89(1)(g) re (b)	0
88(c)	0	89(1)(b)	0	89(1)(g) re (c)	0
88.1	0	89(1)(c)	0	89(1)(g) re (d)	0
88.2(a)	0	89(1)(d)	0	89(1)(g) re (e)	0
88.2(b)	0	89(1)(e)	0	89(1)(g) re (f)	0
		89(1)(f)	0	89.1(1)	0

4.4 Format of information released

Paper	Electronic				Other
	E-record	Data set	Video	Audio	
0	5	0	0	0	0

4.5 Complexity

4.5.1 Relevant pages processed and disclosed for paper and e-record formats

Number of Pages Processed	Number of Pages Disclosed	Number of Requests
4626	4626	5

4.5.2 Relevant pages processed per request disposition for paper and e-record formats by size of requests

Disposition	Less Than 100 Pages Processed		100-500 Pages Processed		501-1000 Pages Processed		1001-5000 Pages Processed		More Than 5000 Pages Processed	
	Number of Requests	Pages Processed	Number of Requests	Pages Processed	Number of Requests	Pages Processed	Number of Requests	Pages Processed	Number of Requests	Pages Processed
All disclosed	4	4	0	0	0	0	0	0	0	0
Disclosed in part	0	0	0	0	0	0	1	4622	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
Request abandoned	0	0	0	0	0	0	0	0	0	0
Neither confirmed nor denied	0	0	0	0	0	0	0	0	0	0
Declined to act with the approval of the Information Commissioner	0	0	0	0	0	0	0	0	0	0
Total	4	4	0	0	0	0	1	4622	0	0

4.5.3 Relevant minutes processed and disclosed for audio formats

Number of Minutes Processed	Number of Minutes Disclosed	Number of Requests
0	0	0

4.5.4 Relevant minutes processed per request disposition for audio formats by size of requests

Disposition	Less Than 60 Minutes Processed		60 - 120 Minutes Processed		More than 120 Minutes Processed	
	Number of Requests	Minutes Processed	Number of Requests	Minutes Processed	Number of Requests	Minutes Processed
All disclosed	0	0	0	0	0	0
Disclosed in part	0	0	0	0	0	0
All exempted	0	0	0	0	0	0
All excluded	0	0	0	0	0	0
Request abandoned	0	0	0	0	0	0
Neither confirmed nor denied	0	0	0	0	0	0
Declined to act with the approval of the Information Commissioner	0	0	0	0	0	0
Total	0	0	0	0	0	0

4.5.5 Relevant minutes processed and disclosed for video formats

Number of Minutes Processed	Number of Minutes Disclosed	Number of Requests
0	0	0

4.5.6 Relevant minutes processed per request disposition for video formats by size of requests

Disposition	Less Than 60 Minutes Processed		60 - 120 Minutes Processed		More than 120 Minutes Processed	
	Number of Requests	Minutes Processed	Number of Requests	Minutes Processed	Number of Requests	Minutes Processed
All disclosed	0	0	0	0	0	0
Disclosed in part	0	0	0	0	0	0
All exempted	0	0	0	0	0	0
All excluded	0	0	0	0	0	0
Request abandoned	0	0	0	0	0	0
Neither confirmed nor denied	0	0	0	0	0	0
Declined to act with the approval of the Information Commissioner	0	0	0	0	0	0
Total	0	0	0	0	0	0

4.5.7 Other complexities

Disposition	Consultation Required	Legal Advice Sought	Other	Total
All disclosed	0	0	0	0
Disclosed in part	1	1	0	2
All exempted	0	0	0	0
All excluded	0	0	0	0
Request abandoned	0	0	0	0
Neither confirmed nor denied	0	0	0	0
Declined to act with the approval of the Information Commissioner	0	0	0	0
Total	1	1	0	2

4.6 Closed requests

4.6.1 Requests closed within legislated timelines

Number of requests closed within legislated timelines	5
Percentage of requests closed within legislated timelines (%)	100

4.7 Deemed refusals

4.7.1 Reasons for not meeting legislated timelines

Number of requests closed past the legislated timelines	Principal Reason			
	Interference with operations/ Workload	External Consultation	Internal Consultation	Other
0	0	0	0	0

4.7.2 Requests closed beyond legislated timelines (including any extension taken)

Number of days past legislated timelines	Number of requests past legislated timeline where no extension was taken	Number of requests past legislated timeline 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

4.8 Requests for translation

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

Section 5: Extensions

5.1 Reasons for extensions and disposition of requests

Disposition of Requests Where an Extension Was Taken	9(1)(a) Interference With Operations/ Workload	9(1)(b) Consultation		9(1)(c) Third-Party Notice
		Section 69	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
Request abandoned	0	0	0	0
No records exist	0	0	0	0
Declined to act with the approval of the Information Commissioner	0	0	0	0
Total	1	0	1	0

5.2 Length of extensions

Length of Extensions	9(1)(a) Interference With Operations/ Workload	9(1)(b) Consultation		9(1)(c) Third-Party Notice
		Section 69	Other	
30 days or less	0	0	1	0
31 to 60 days	0	0	0	0
61 to 120 days	0	0	0	0
121 to 180 days	0	0	0	0
181 to 365 days	1	0	0	0
365 days or more	0	0	0	0
Total	1	0	1	0

Section 6: Fees

Fee Type	Fee Collected		Fee Waived		Fee Refunded	
	Number of Requests	Amount	Number of Requests	Amount	Number of Requests	Amount
Application	4	\$20.00	0	\$0.00	0	\$0.00
Other fees	0	\$0.00	0	\$0.00	0	\$0.00
Total	4	\$20.00	0	\$0.00	0	\$0.00

Section 7: Consultations Received From Other Institutions and Organizations

7.1 Consultations received from other Government of Canada institutions and other organizations

Consultations	Other Government of Canada Institutions	Number of Pages to Review	Other Organizations	Number of Pages to Review
Received during the reporting period	1	10	0	0
Outstanding from the previous reporting period	0	0	0	0
Total	1	10	0	0
Closed during the reporting period	1	10	0	0
Carried over within negotiated timelines	0	0	0	0
Carried over beyond negotiated timelines	0	0	0	0

7.2 Recommendations and completion time for consultations received from other Government of Canada 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	More Than 365 Days	
Disclose entirely	0	1	0	0	0	0	0	1
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	1	0	0	0	0	0	1

7.3 Recommendations and completion time for consultations received from other organizations outside the Government of Canada

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	More 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

Section 8: Completion Time of Consultations on Cabinet Confidences

8.1 Requests with Legal Services

Number of Days	Fewer Than 100 Pages Processed		100-500 Pages Processed		501-1000 Pages Processed		1001-5000 Pages Processed		More Than 5000 Pages Processed	
	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed
1 to 15	0	0	0	0	0	0	0	0	0	0
16 to 30	0	0	0	0	0	0	0	0	0	0
31 to 60	0	0	0	0	0	0	0	0	0	0
61 to 120	0	0	0	0	0	0	0	0	0	0
121 to 180	0	0	0	0	0	0	0	0	0	0
181 to 365	0	0	0	0	0	0	0	0	0	0
More than 365	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0

8.2 Requests with Privy Council Office

Number of Days	Fewer Than 100 Pages Processed		100-500 Pages Processed		501-1000 Pages Processed		1001-5000 Pages Processed		More Than 5000 Pages Processed	
	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed	Number of Requests	Pages Disclosed
1 to 15	0	0	0	0	0	0	0	0	0	0
16 to 30	0	0	0	0	0	0	0	0	0	0
31 to 60	0	0	0	0	0	0	0	0	0	0
61 to 120	0	0	0	0	0	0	0	0	0	0
121 to 180	0	0	0	0	0	0	0	0	0	0
181 to 365	0	0	0	0	0	0	0	0	0	0
More than 365	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0

Section 9: Investigations and Reports of finding

9.1 Investigations

Section 32 Notice of intention to investigate	Subsection 30(5) Ceased to investigate	Section 35 Formal Representations
1	0	1

9.2 Investigations and Reports of finding

Section 37(1) Initial Reports			Section 37(2) Final Reports		
Received	Containing recommendations issued by the Information Commissioner	Containing orders issued by the Information Commissioner	Received	Containing recommendations issued by the Information Commissioner	Containing orders issued by the Information Commissioner
0	0	0	1	0	0

Section 10: Court Action

10.1 Court actions on complaints

Section 41				
Complainant (1)	Institution (2)	Third Party (3)	Privacy Commissioner (4)	Total
0	0	0	0	0

10.2 Court actions on third party notifications under paragraph 28(1)(b)

Section 44 - under paragraph 28(1)(b)
0

Section 11: Resources Related to the *Access to Information Act*

11.1 Allocated Costs

Expenditures		Amount
Salaries		\$52,124
Overtime		\$0
Goods and Services		\$181,060
• Professional services contracts	\$181,060	
• Other	\$0	
Total		\$233,183

11.2 Human Resources

Resources	Person Years Dedicated to Access to Information Activities
Full-time employees	0.499
Part-time and casual employees	0.000
Regional staff	0.000
Consultants and agency personnel	0.393
Students	0.000
Total	0.892

Note: Enter values to three decimal places.

Appendix D: Supplemental Statistical Report



Supplemental Statistical Report on the *Access to Information Act* and the *Privacy Act*

Name of institution: PSPIB and its Wholly-Owned Subsidiaries

Reporting period: 2022-04-01 to 2023-03-31

Section 1: Capacity to Receive Requests under the *Access to Information Act* and the *Privacy Act*

Enter the number of weeks your institution was able to receive ATIP requests through the different channels.

	Number of Weeks
Able to receive requests by mail	52
Able to receive requests by email	52
Able to receive requests through the digital request service	52

Section 2: Capacity to Process Records under the *Access to Information Act* and the *Privacy Act*

2.1 Enter the number of weeks your institution was able to process paper records in different classification levels.

	No Capacity	Partial Capacity	Full Capacity	Total
Unclassified Paper Records	0	32	20	52
Protected B Paper Records	0	32	20	52
Secret and Top Secret Paper Records	0	32	20	52

2.2 Enter the number of weeks your institution was able to process electronic records in different classification levels.

	No Capacity	Partial Capacity	Full Capacity	Total
Unclassified Electronic Records	0	0	52	52
Protected B Electronic Records	0	0	52	52
Secret and Top Secret Electronic Records	0	0	52	52

Section 3: Open Requests and Complaints Under the *Access to Information Act*

3.1 Enter the number of open requests that are outstanding from previous reporting periods.

Fiscal Year Open Requests Were Received	Open Requests that are <i>Within</i> Timelines as of March 31, 2023	Open Requests that are <i>Beyond</i> Timelines as of March 31, 2023	Total
Received in 2022-2023	3	0	3
Received in 2021-2022	0	0	0
Received in 2020-2021	0	0	0
Received in 2019-2020	0	0	0
Received in 2018-2019	0	0	0
Received in 2017-2018	0	0	0
Received in 2016-2017	0	0	0
Received in 2015-2016	0	0	0
Received in 2014-2015	0	0	0
Received in 2013-2014 or earlier	0	0	0
Total	3	0	3

Row 11, Col. 3 of Section 3.1 must equal Row 7, Col. 1 of Section 1.1 of the 2022-2023 Statistical Report on the *Access to Information Act*

3.2 Enter the number of open complaints with the Information Commissioner of Canada that are outstanding from previous reporting periods.

Fiscal Year Open Complaints Were Received by Institution	Number of Open Complaints
Received in 2022-2023	0
Received in 2021-2022	0
Received in 2020-2021	0
Received in 2019-2020	0
Received in 2018-2019	0
Received in 2017-2018	0
Received in 2016-2017	0
Received in 2015-2016	0
Received in 2014-2015	0
Received in 2013-2014 or earlier	1
Total	1

Section 4: Open Requests and Complaints Under the Privacy Act

4.1 Enter the number of open requests that are outstanding from previous reporting periods.

Fiscal Year Open Requests Were Received	Open Requests that are <i>Within</i> Legislated Timelines as of March 31, 2023	Open Requests that are <i>Beyond</i> Legislated Timelines as of March 31, 2023	Total
Received in 2022-2023	2	0	2
Received in 2021-2022	0	0	0
Received in 2020-2021	0	0	0
Received in 2019-2020	0	0	0
Received in 2018-2019	0	0	0
Received in 2017-2018	0	0	0
Received in 2016-2017	0	0	0
Received in 2015-2016	0	0	0
Received in 2014-2015	0	0	0
Received in 2013-2014 or earlier	0	0	0
Total	2	0	2

Row 11, Col. 3 of Section 4.1 must equal Row 7, Col. 1 of Section 1.1 of the 2022-2023 Statistical Report on the *Privacy Act*

4.2 Enter the number of open complaints with the Privacy Commissioner of Canada that are outstanding from previous reporting periods.

Fiscal Year Open Complaints Were Received by Institution	Number of Open Complaints
Received in 2022-2023	0
Received in 2021-2022	0
Received in 2020-2021	0
Received in 2019-2020	0
Received in 2018-2019	0
Received in 2017-2018	0
Received in 2016-2017	0
Received in 2015-2016	0
Received in 2014-2015	0
Received in 2013-2014 or earlier	0
Total	0

Section 5: Social Insurance Number

Has your institution begun a new collection or a new consistent use of the SIN in 2022-2023?	No
--	----

Section 6: Universal Access under the Privacy Act

How many requests were received from confirmed foreign nationals outside of Canada in 2022-2023?	0
--	---

Row 1, Col. 1 of Section 6 must be equal to or less than Row 1, Col. 1 of Section 1.1 of the 2022-2023 Statistical Report on the *Privacy Act*

Appendix E: Application of the Law to PSP Information

E.1 PSP Statutory Mandate

In accordance with the *Public Sector Pension Investment Board Act*,²⁹ PSP's statutory mandate is to: (1) manage amounts that are transferred to it in the best interests of the contributors and beneficiaries under the acts related to the Plans; and (2) invest its assets with a view to achieving a maximum rate of return, *without undue risk of loss*, having regard to the funding, policies and requirements of the plans and the ability of the plans to meet their financial obligations.³⁰

E.2 Legal Principles – Specific Exemptions for PSP

Parliament has created specific exemptions for information under the control of PSP, recognizing the unique relationship it has with private sector companies and the nature of its mandate.

Section 18.1 of the *Access to Information Act* protects PSP's own commercial information, providing that PSP may refuse to disclose a record that contains trade secrets or financial, commercial, scientific, or technical information that belongs to it and has been consistently treated as confidential.

Section 20.1 protects information belonging to third parties, requiring PSP to refuse to disclose a record that contains advice or relating to investment that PSP has obtained in confidence from a third party, if has consistently treated the advice or information as confidential.

The history of these exemptions shows that Parliament specifically turned its mind to the prejudice that can arise if PSP was required to disclose confidential information belonging to investee companies or investment partners. There is a risk of harm to third party investee companies and investment partners if their confidential information is made public, and a risk of harm, or a chilling effect, on PSP's ability to make investments and deal with investee companies and investment partners if PSP cannot guarantee confidentiality.

²⁹ S.C. 1999, c. 34. Please see <https://laws-lois.justice.gc.ca/PDF/P-31.7.pdf>.

³⁰ Section 4 of the *Public Sector Pension Investment Board Act*. Please see <https://laws-lois.justice.gc.ca/PDF/P-31.7.pdf>.

The Department of Justice's Discussion Paper regarding the *Access to Information Act* amendments, that expanded the scope of the Act to apply to all Crown corporations, specifically identified PSP as a corporation having a mandate for which special exemptions would potentially be needed to meet its specific and unique sensitivities.³¹

During the meetings of the Legislative Committee on Bill C-2, which amended the *Access to Information Act*, representatives of PSP appeared and were questioned about the reasons PSP required the section 18.1 and 20.1 exemptions, rather than the existing exemptions in the *Access to Information Act* being sufficient. PSP explained:³²

"Third-party information protection is based on a proof that the third party has consistently kept the information confidential. We need private investments with general partners who do not wish to partner with organizations where there's a risk of their information being disclosed.

We believe the current exemptions that are proposed in Bill C-2 are clearer and more unequivocal. When we go to various parts of the world and try to do business with partners, we could tell them this is a specific protection given to PSP Investments, this is what it means, and it's in plain English. They'll understand and they will not object to doing business with us.

...

Well, I believe that in trying to comply with this legislation we also have to try to fulfill our legislative mandate, which is to provide the necessary return without undue risk. I believe the proposed exemptions do not take anything away; you're not gaining anything more by giving us the proposed exemptions. The exemptions will only help us to tell those partners that we will not disclose the information.

At the end of the day, if we have to make those returns, we need to have access to those first quartile partners. ...

...

As Mr. Fyfe says, we're in the business of making money. We seek this confidentiality in order to get the best partners in the world, and they will only deal with us if we can guarantee them confidentiality of their information. It's not the same as the secrets of state, but it is important in terms of providing a reduction to the risk that employees and employers will have to pay more in the long run for

³¹ Canada, Department of Justice, *A Comprehensive Framework for Access to Information Reform: A Discussion Paper* (April 2005) at pp. 5-6. Please see: <https://www.justice.gc.ca/eng/rp-pr/csj-sjc/atip-ai-prp/ati-aai/ati-aai.pdf>.

³² House of Commons Legislative Committee on Bill C-2 (31 May 2006) (Paul Cantor and Assunta Di Lorenzo). Please see: <https://www.ourcommons.ca/DocumentViewer/en/39-1/CC2/meeting-17/minutes>.

their pensions.

...

Even if we manage to prevent the disclosure of information, the partners we want to do business with won't be willing to run the risk of having to disclose their financial statements, which constitute confidential information. Take, for example, the private equity market, where money is loaned to people to invest. We want to be able to reassure them that although we are subject to legislation, we are not obliged to disclose their investments. We need much clearer exemptions than those contained in current legislation.”³³ [emphasis added]

The member of the Committee who had commenced this line of questions specifically noted that these responses dealt very well with his question.³⁴

In later proceedings of the Committee, during a discussion of whether exemptions for other Crown corporations would be broad enough, it was noted:³⁵

“There are a number of checks and balances built into the Access to Information Act to deal with that very thing, and there are further complete exclusions built into Bill C-2 for places that are particularly sensitive, such as the Public Sector Pension Investment Board, where they may be seeking large institutional investors who may be scared away if they think that, even 20 years down the road, information normally considered privileged in the corporate world may be made public because of their relationship with this quasi-public institution.”³⁶ [emphasis added]

The Committee received similar evidence with respect to the Canada Pension Plan Investment Board. Indeed, the Act was amended at Committee to delete a provision that would have limited the Canada Pension Plan Investment Board's third-party information exemption to information received within the most recent 20-year period. The member of the Committee who moved the amendment noted:³⁷

“The head of the Canada Pension Plan Investment Board and senior staff came to the committee and made representation that it would put a chill on their opportunities to attract major investors if information could be accessed even after a 20-year cooling-off period.

³³ Please see <https://www.ourcommons.ca/DocumentViewer/en/39-1/CC2/meeting-17/evidence> .

³⁴ Ibid. (Hon. Stephen Owen).

³⁵ House of Commons Legislative Committee on Bill C-2 (13 June 2006) (Pat Martin). Please see: <https://www.ourcommons.ca/DocumentViewer/en/39-1/CC2/meeting-24/minutes> .

³⁶ House of Commons Legislative Committee on Bill C-2 (13 June 2006) (Pat Martin). Please see: <https://www.ourcommons.ca/DocumentViewer/en/39-1/CC2/meeting-24/evidence> .

³⁷ House of Commons Legislative Committee on Bill C-2 (13 June 2006) (Pat Martin). Please see: <https://www.ourcommons.ca/DocumentViewer/en/39-1/CC2/meeting-25/minutes> .

...

We were sympathetic to the representations made by the chair of the Canada Pension Plan Investment Board that it may in fact be difficult for them in a very competitive investment market to attract the kinds of investors they're seeking if those investors had any fear that even 20 years down the road their private information might be disclosed through an access to information request. We are sympathetic to the fact that it's a very highly competitive market and any small thing may alter their choice to invest.”³⁸

While these statements related to a different pension investment board, given the similarity of the concerns raised by PSP and the Canada Pension Plan Investment Board, it is reasonable to infer that the Committee was similarly sympathetic to PSP's evidence regarding the potential chilling effect on its investments if investee companies and investment partners had to be concerned that their confidential information would be subject to the *Access to Information Act*.

Similarly, in the Senate Committee hearings on Bill C-2, the Chairperson of PSP made submissions regarding risks to PSP's investment opportunities if it could not guarantee confidentiality.³⁹ Ultimately, the amendments to the *Access to Information Act* were enacted with the section 18.1 and 20.1 exemptions.

The Supreme Court of Canada (“SCC”) has made clear that “*when the information at stake is third party, confidential commercial and related information, the important goal of broad disclosure must be balanced with the legitimate private interests of third parties and the public interest in promoting innovation and development.*”⁴⁰ Parliament has, through section 20.1 of the Act, clearly recognized that there are concerns specific to PSP surrounding the potential disclosure of investee company and investment partner information. In our view, it is reasonable and fundamental to interpret the *Access to Information Act* taking into consideration Parliament's intent with respect to the best interests of the contributors and beneficiaries under the Acts related to the Plans in a consistent manner.⁴¹

Paragraph 18.1(1)(c) of the *Access to Information Act* is a discretionary class exemption that is intended to protect the confidential business information of PSP. The consequence of a discretionary exemption is to permit PSP to either disclose or refuse to disclose all or part of a record, even if that exemption applies. The SCC has held in

³⁸ House of Commons Legislative Committee on Bill C-2 (13 June 2006) (Pat Martin). Please see: <https://www.ourcommons.ca/DocumentViewer/en/39-1/CC2/meeting-25/evidence> .

³⁹ Standing Senate Committee on Legal and Constitutional Affairs, Issue No. 8 (20 September 2006) (Paul Cantor). Please see: <https://sencanada.ca/en/Committees/LCJC/NoticeOfMeeting/7378/39-1> .

⁴⁰ *Merck Frosst Canada Ltd. v. Canada (Health)*, 2012 SCC 3, at para. 23. Please see: <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/7988/index.do> .

⁴¹ Section 4 of the *Public Sector Pension Investment Board Act*. Please see <https://laws-lois.justice.gc.ca/PDF/P-31.7.pdf> .

*Ontario (Public Safety and Security) v. Criminal Lawyers' Association*⁴² that, where a discretionary exemption is available, this discretion must be exercised in a manner consistent with the purpose of the exemption at issue and all other relevant interests and considerations, based on the facts and circumstances of the case.

PSP must also consider the objects of the *Access to Information Act* as a whole, including the guiding principles and the general purpose of the Act. The guiding principles of the Act (set out in section 2 of the Act) are as follows:

- that government information should be available to the public.
- that necessary exceptions to the right of access should be limited and specific.
- that decisions on the disclosure of government information should be reviewed independently of government.⁴³

According to the SCC in *Dagg v. Canada (Minister of Finance)*,⁴⁴ the general purpose of the *Access to Information Act* is to facilitate democracy by ensuring that citizens have the information required to participate meaningfully in the democratic process and that politicians and bureaucrats remain accountable to citizens.

A two-step process must be followed when analyzing the application of any discretionary exemption. First, PSP must determine whether the exemption applies. If it does, PSP must then consider whether, having regard to all relevant interests, including the public interest in disclosure, disclosure should be made.

It therefore follows that to properly exercise its discretion, PSP must weigh the considerations for and against disclosure, including the public interest in disclosure. PSP must consider the object of the *Access to Information Act* in exercising its discretion. It must be governed by the principles that information should be available to the public and that exemptions to access should be limited and specific. It must also consider the limited purpose of the exemption in issue in relation to the circumstances at hand. To properly discharge its obligation to exercise discretion, PSP must act reasonably in arriving at its conclusion.

Although the exercise of discretion must be done on a case-by-case basis, some of the factors that PSP considers in exercising its discretion include the following:

- the guiding principles and general purpose of the *Access to Information Act* (purpose).
- the specific wording of the discretionary exemption and the interests that the exemption attempts to protect (specific exemptions available to PSP and

⁴² *Ontario (Public Safety and Security) v. Criminal Lawyers' Association*, 2010 SCC 23, [2010] 1 S.C.R. 815. Please see: <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/7864/index.do> .

⁴³ Please see: <https://laws-lois.justice.gc.ca/PDF/A-1.pdf> .

⁴⁴ *Dagg v. Canada (Minister of Finance)*, [1997] 2 S.C.R. 403. Please see: <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1525/index.do> .

investees).

- the age of the record (passage of time and historical value).
- the public interest in disclosing the record, including the degree of public interest in the information (public confidence).
- whether disclosure would assist or shed light on issues under public discussion (public interest).
- whether disclosure of the information would benefit an individual or group (facts and circumstances).
- whether there are compassionate grounds for disclosure (compelling reasons).
- the availability of the information (any prior public disclosure).⁴⁵

Following consideration of these factors and any other relevant circumstances,⁴⁶ PSP decides whether or not to disclose part or all of the requested information that falls under the exemptions, bearing in mind that the goal is to release as much information as possible without causing the harm that is the reason for the exemption.

If harm from the release of certain information outweighs any benefit in PSP's reasonable judgment, that information may be severed, and the rest released. The process of severing plays an integral part in the proper exercise of discretion in the spirit of the legislation.

As confirmed by the SCC in *Dagg*, a court reviewing a refusal to disclose under a discretionary exemption will review both (1) whether the records fall within the exemption claimed, and (2) whether discretion was exercised properly. Generally, the standard of review applied to the first question is correctness. Regarding the second question, if the Court is satisfied that discretion was exercised, it will then ask whether the discretion was exercised reasonably.^{47 48 49}

Pursuant to subsection 18.1(1) of the *Access to Information Act* the following three elements must be satisfied before this exemption applies:

- 1) The information involved must be a trade secret or financial, commercial, scientific, or technical information.

⁴⁵ These factors are aligned with those used by the Information Commissioner of Canada in "*Investigation Guidance*," "*Interpretation: Exercise of discretion*," under: "*Factors for and against disclosure*." Please see: <https://www.oic-ci.gc.ca/en/information-commissioners-guidance/investigators-guide-interpreting-act/interpretation-exercise-discretion>

⁴⁶ "*other relevant circumstances*" refers to the legal obligations of PSP to act "*without undue risk of loss*" set out in the *Public Sector Pension Investment Board Act* (<https://laws-lois.justice.gc.ca/PDF/P-31.7.pdf>).

⁴⁷ *Dagg*, supra, footnote 21, at par. 103 to 107.

⁴⁸ To the same effect, *Attaran v. Canada (Minister of Foreign Affairs)*, 2011 FCA 182. Please see: <https://www.canlii.org/en/ca/fca/doc/2011/2011fca182/2011fca182.html?autocompleteStr=Attaran%20v.%20Canada&autocompletePos=1> .

⁴⁹ *Bronskill v. Canada (Minister of Canadian Heritage)*, 2011 FC 983. Please see: <https://www.canlii.org/en/ca/fct/doc/2011/2011fc983/2011fc983.html?autocompleteStr=Bronskill%20v.%20Canada&autocompletePos=1> .

In the decision *Merck Frosst Canada Ltd. v. Canada (Health)* [Merck],⁵⁰ the SCC agreed with the well-established jurisprudence of the Federal Court that the terms “*financial, commercial, scientific or technical*” should be given their ordinary dictionary meanings. The SCC recognized that the information at issue need not have an inherent value;⁵¹ and those administrative details such as page and volume numbering, dates, and location of information within the records do not constitute financial, commercial, scientific, or technical information.

2) The information belongs to PSP, or to its wholly-owned subsidiaries, within the meaning of section 83 of the *Financial Administration Act*.⁵²

3) The Crown corporation named in subsection 18.1(1), or its wholly-owned subsidiary, owning the information has consistently treated the information as confidential.⁵³

E.3 Position of the OIC Pertaining to Exemptions Claimed by PSP

As described above in section VII.2, on March 13th, 2023, the Information Commissioner of Canada issued a decision dismissing a complaint filed against the application of exemptions to PSP documents.⁵⁴ The Information Commissioner of Canada’s decision states as follows:

“Based on the representations received and a review of the records, the Office of the Information Commissioner (OIC) has determined that the release of the information at issue could reasonably be expected to injure the PSPIB’s competitive position and to interfere with its ongoing and future negotiations. More particularly, disclosure of the information could allow discernment of the PSPIB’s investment strategies which could, consequently, threaten its competitive position.

Since the information meets the requirements of this exemption, the OIC did not examine the other exemptions that the PSPIB applied to the same information.”

⁵⁰ *Merck*, supra, footnote 17.

⁵¹ The SCC said, at paragraph 140: “The case law also holds that in order to constitute financial, commercial, scientific or technical information, the information at issue need not have an inherent value, such as a client list might have, for example. The value of information ultimately ‘depends upon the use that may be made of it, and its market value will depend upon the market place, who may want it, and for what purposes, a value that may fluctuate widely over time.’”

⁵² <https://laws-lois.justice.gc.ca/PDF/F-11.pdf>

⁵³ To be confidential, at the time of the request, the information must not be available from sources otherwise accessible by the public, or obtainable by observation or independent study by a member of the public acting on his or her own.

⁵⁴ PSP file number # A-2022-01. OIC file number 5822-00924.

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