

Right to Information

2010-2011 Annual Report

Department of Government Services

May 2014

2010-2011 Annual Report – Right to Information

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Introduction

This report captures right to information statistics for provincial government departments and agencies responding to applications for access to records during the period of April 1st 2010 to March 31st 2011.

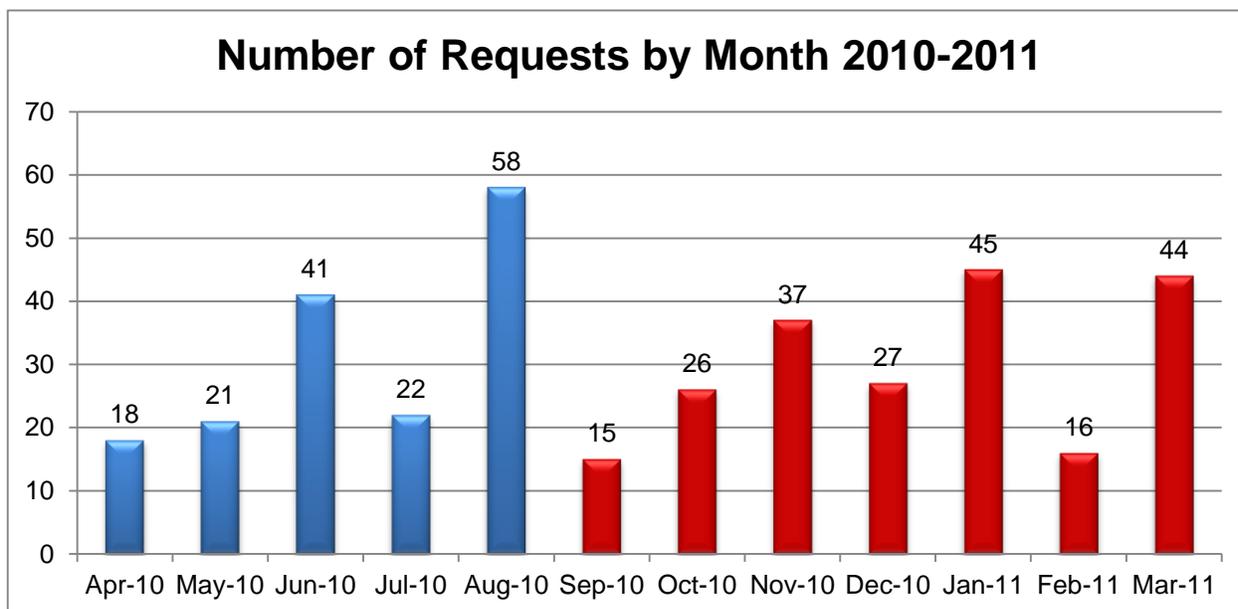
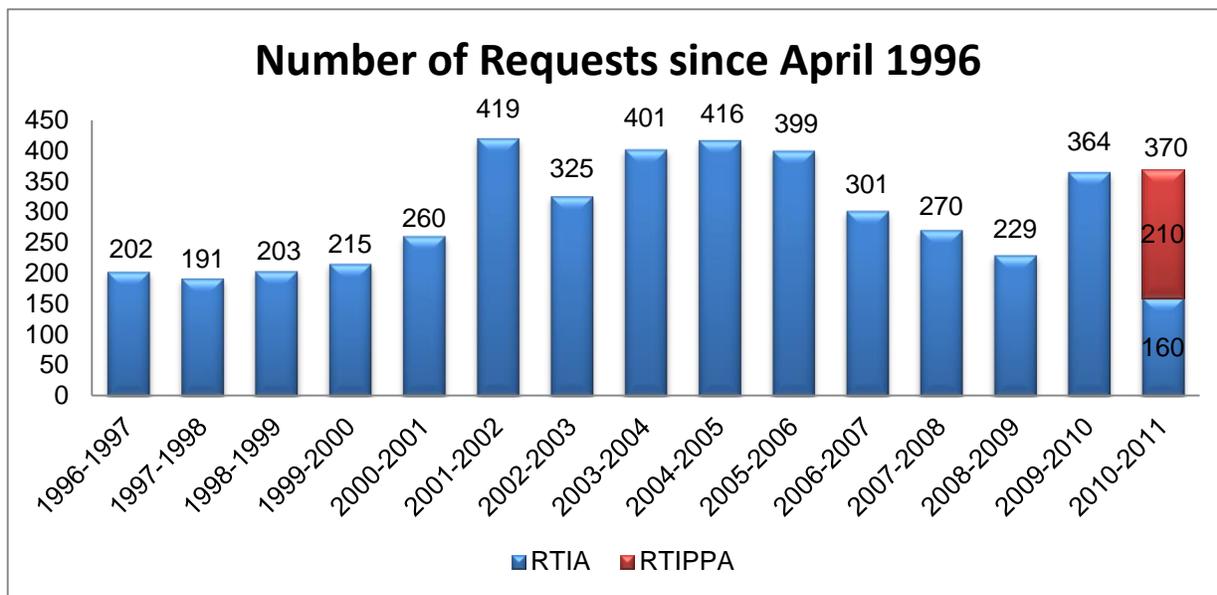
The year 2010-2011 was a turning point for right to information in the Province of New Brunswick. On September 1st 2010, the new *Right to Information and Protection of Privacy Act (RTIPPA)* was proclaimed. It replaced both the *Right to Information Act (RTIA)* and the *Protection of Personal Information Act (POPIA)*.

The responsibility for the new legislation was transferred from the Executive Council Office to the Department of Supply and Services. An Information Access and Privacy Unit was established to provide corporate leadership and guidance to public bodies on the new legislation. Although the Minister of Supply and Services has responsibility for the administration of the *Act*, the responsibility for processing right to information requests lies with individual public bodies.

Since 2010-2011 was a transitional year, the annual report is divided into two sections. The first part of this report looks at data from April 1st to August 31st 2010 which falls under the *Right to Information Act*. The second part of this report looks at data from September 1st 2010, when the new *Right to Information and Protection of Privacy Act* was enacted, to March 31st 2011.

Number of Requests Submitted to Public Bodies

In 2010-2011, public bodies received a total of 370 requests for information; that is an increase of 6 requests or 1.6 % from the previous year. Of that number, 160 requests were received under the old legislation (*Right to Information Act*) and 210 under the new *Right to Information and Protection of Privacy Act*.



Part 1 – Right to Information Act (RTIA)

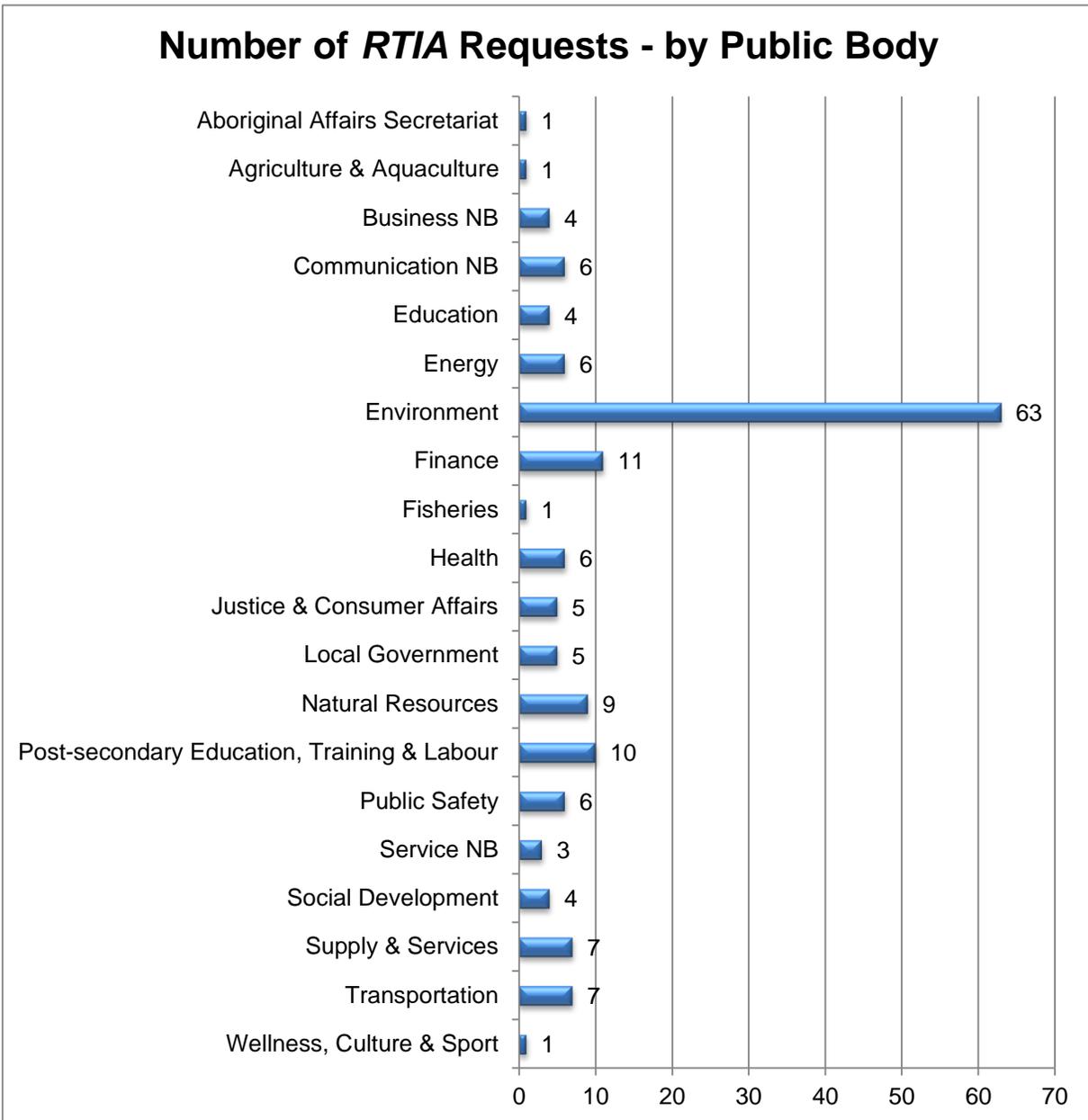
April 1st 2010 - August 31st 2010

Number of Requests Received under *RTIA*

Between April 1st 2010 and August 31st 2010, public bodies received a total of 160 requests. The Department of Environment had the most requests with 63 which amounts to 39% of the requests received. The majority of the requests received by the Department of Environment were in relation to matters dealing with remediation of property (52). The Department of Finance had the next highest number of requests with 11 (7%) and the Department of Post-secondary Education, Training and Labour had 10 requests (6%).

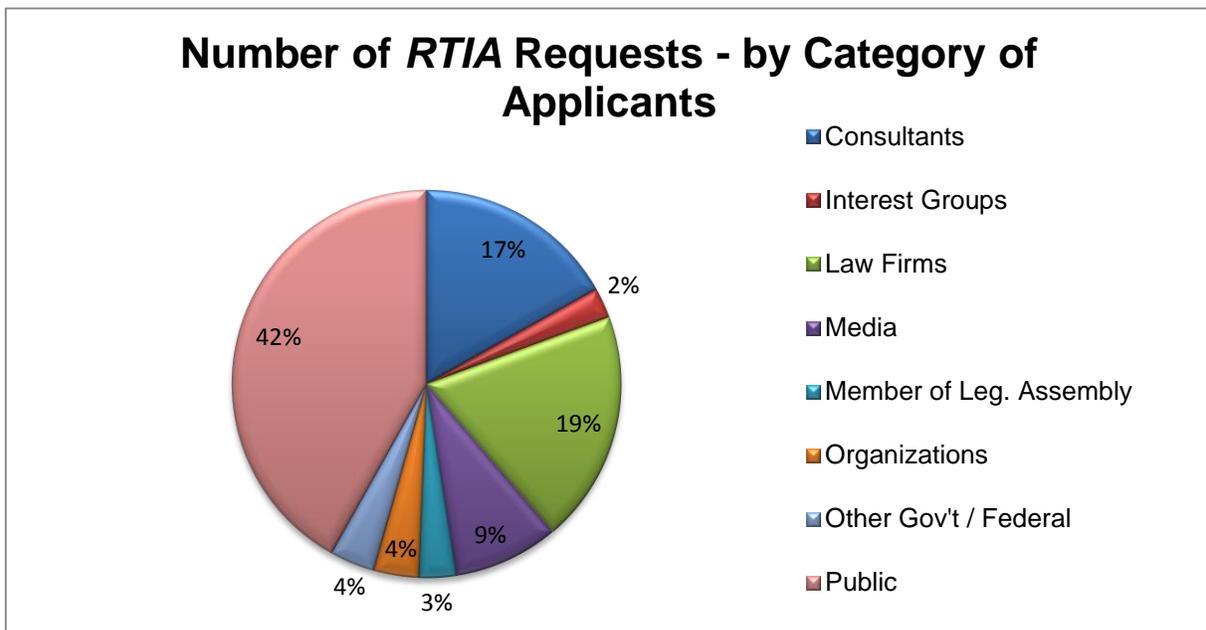
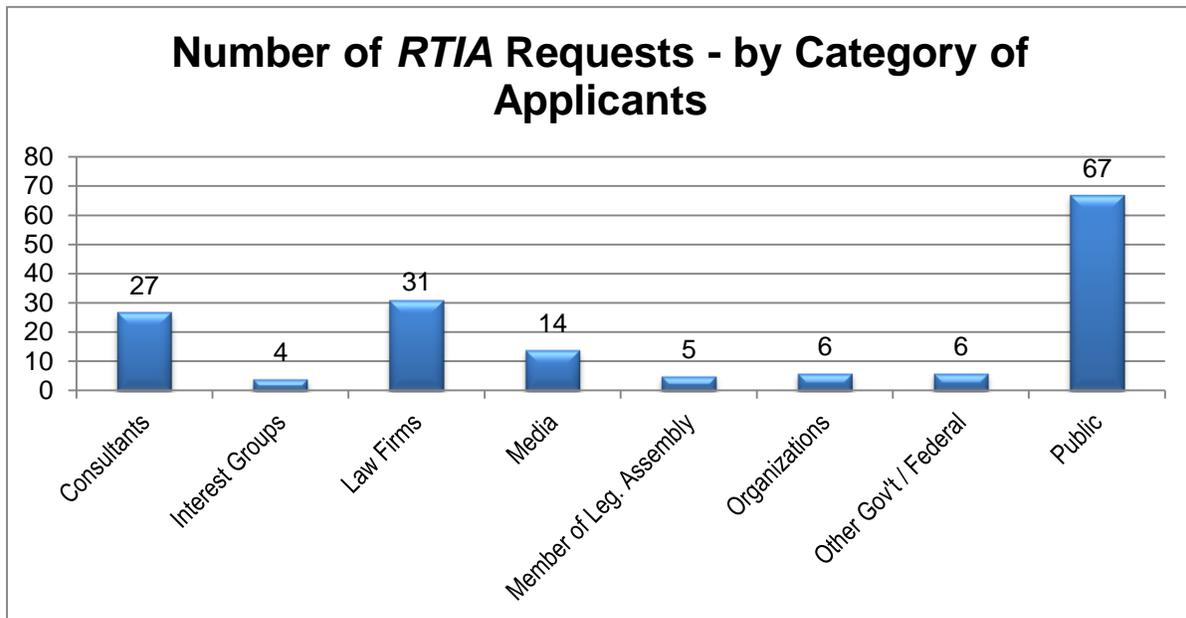
Public Bodies	Requests
Aboriginal Affairs Secretariat	1
Agriculture & Aquaculture	1
Business NB	4
Communication NB	6
Education	4
Energy	6
Environment	63
Finance	11
Fisheries	1
Health	6
Justice & Consumer Affairs	5
Local Government	5
Natural Resources	9
Post-secondary Education, Training & Labour	10
Public Safety	6
Service NB	3
Social Development	4
Supply & Services	7
Transportation	7
Wellness, Culture & Sport	1
TOTAL	160

Number of *RTIA* Requests - by Public Body



Number of *RTIA* Requests - by Category of Applicants

From all the requests received by public bodies, 67 (42%) were from the public, 31 (19%) from law firms, 27 (17%) from consultants and 14 (9%) from the media. The remaining 21 requests were submitted by organizations (6), other governments (6), members of the Legislative Assembly (5), and interest groups (4).

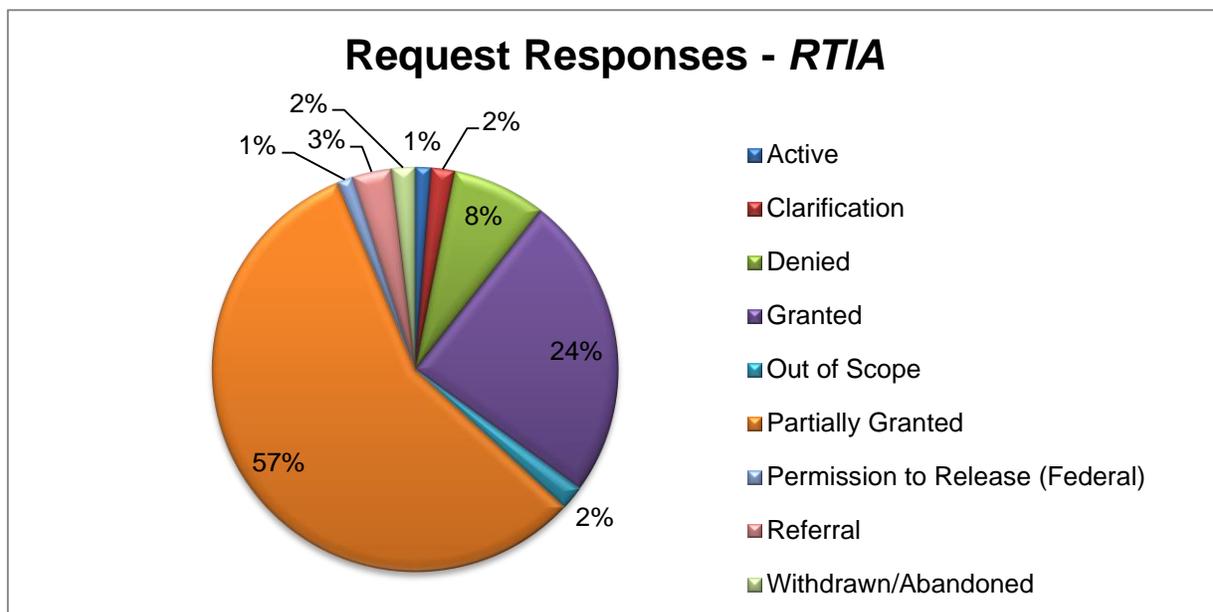
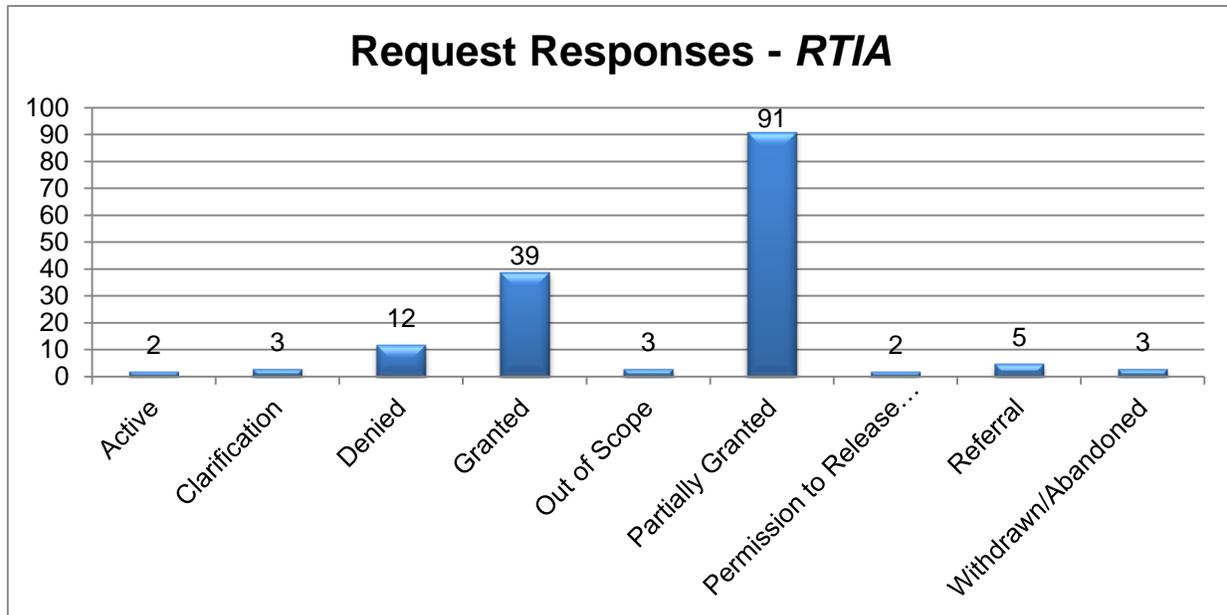


Categories of Applicants - by Public Body

	Consultants	Public	Other Gov't / Federal	MLAs	Organizations	Media	Law Firms	Interest Groups
Aboriginal Affairs Secretariat	-	-	-	1	-	-	-	-
Agriculture & Aquaculture	-	1	-	-	-	-	-	-
Business NB	-	2	-	-	-	2	-	-
Communication NB	-	-	1	-	2	2	-	1
Education	-	4	-	-	-	-	-	-
Energy	-	4	-	-	-	2	-	-
Environment	27	11	-	-	1	-	24	-
Finance	-	3	-	-	-	4	3	1
Fisheries	-	1	-	-	-	-	-	-
Health	-	5	-	-	-	-	1	-
Justice & Consumer Affairs	-	3	1	-	-	-	1	-
Local Government	-	5	-	-	-	-	-	-
Natural Resources	-	6	-	-	-	3	-	-
Post-secondary Education, Training & Labour	-	6	3	-	-	-	1	-
Public Safety	-	5	-	-	-	-	-	1
Service NB	-	2	-	-	-	-	1	-
Social Development	-	4	-	-	-	-	-	-
Supply & Services	-	2	-	3	1	-	-	1
Transportation	-	2	1	1	2	-	-	-
Wellness, Culture & Sport	-	1	-	-	-	1	-	-
TOTAL	27	67	6	5	6	14	31	4

Request Responses - RTIA

Public bodies disclosed or partially disclosed information 82 % of the time (includes obtaining permission to release from the federal government). A total of 14 requests (9 %) were either withdrawn, referred, required clarification or were out of scope. Access to information was denied on 12 occasions (8%), while 1 % of the requests remain active.

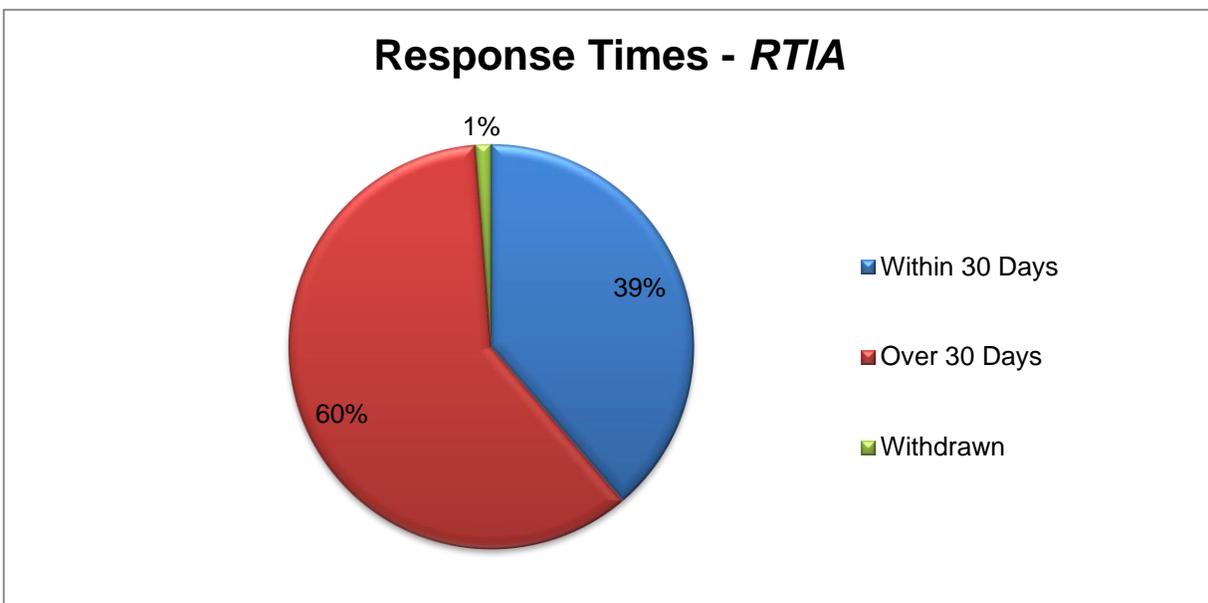
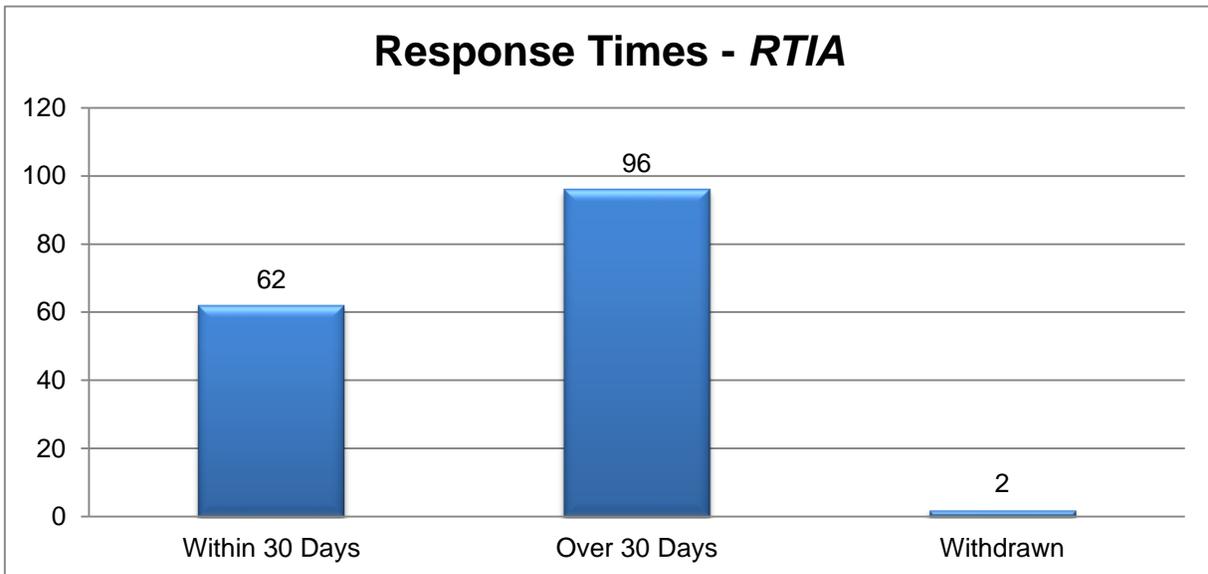


RTIA Request Responses - by Public Body

	Granted	Partially Granted	Denied	Withdrawn/ Abandoned	Clarification	Referral	Permission to Release (Federal)	Out of Scope	Active
Aboriginal Affairs Secretariat	-	1	-	-	-	-	-	-	-
Agriculture & Aquaculture	-	1	-	-	-	-	-	-	-
Business NB	1	2	-	-	-	-	-	1	-
Communication NB	3	1	2	-	-	-	-	-	-
Education	3	1	-	-	-	-	-	-	-
Energy	4	1	-	-	-	-	-	-	1
Environment	7	46	7	2	-	-	-	1	-
Finance	1	6	1	-	-	3	-	-	-
Fisheries	-	1	-	-	-	-	-	-	-
Health	2	3	-	-	-	1	-	-	-
Justice & Consumer Affairs	1	3	1	-	-	-	-	-	-
Local Government	5	-	-	-	-	-	-	-	-
Natural Resources	1	5	-	-	2	-	-	1	-
Post-secondary Education, Training & Labour	-	7	1	-	-	-	2	-	-
Public Safety	2	3	-	-	1	-	-	-	-
Service NB	2	1	-	-	-	-	-	-	-
Social Development	2	2	-	-	-	-	-	-	-
Supply & Services	4	3	-	-	-	-	-	-	-
Transportation	1	4	-	1	-	1	-	-	-
Wellness, Culture & Sport	-	-	-	-	-	-	-	-	1
TOTAL	39	91	12	3	3	5	2	3	2

Response Times - RTIA

Under the *Right to Information Act*, public bodies had to respond to right to information requests within 30 days of the date they were received. The *Act* did not allow for any time extensions. For the period of April to August 2010, 62 requests (39%) were completed within the 30-day timeframe while 96 (60%) required more than 30 days. 2 requests (1%) were withdrawn.

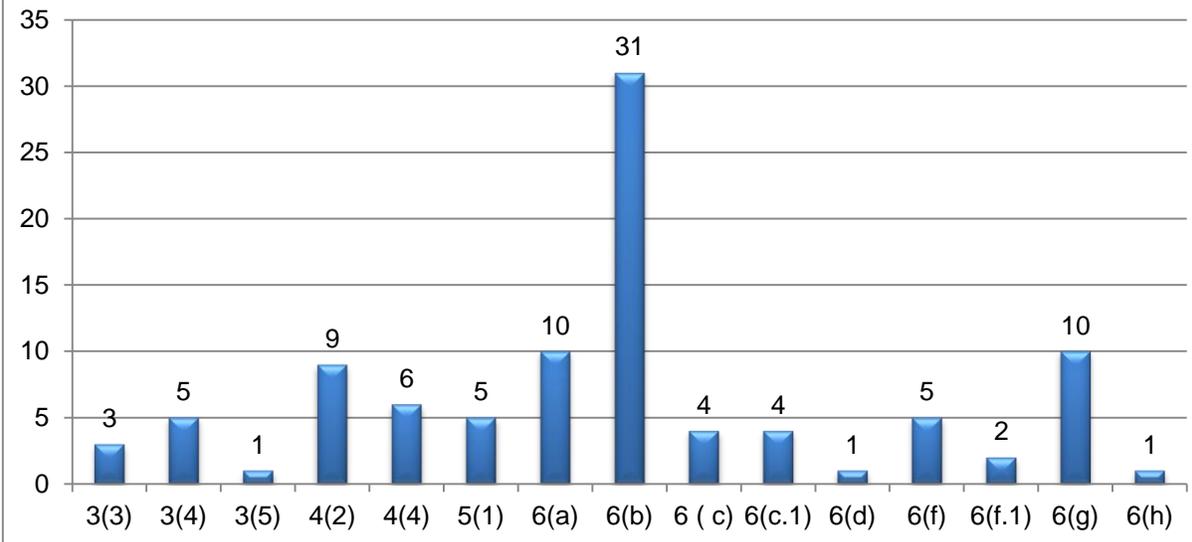


Application of *RTIA* – by Section

When public bodies severed information from a record or decided to withhold a record, they had to indicate which section of the *Right to Information Act* was used. The following table summarizes the sections of the *Act* that were used. Because more than one section may be cited in response to a single request, the number of occurrences does not coincide with the total number of requests recorded for this fiscal year.

Sect.	Explanation
3(3)	Documents requested cannot be identified
3(4)	Documents not kept / filed with public body
3(5)	Documents have been transferred to the Provincial Archives
4(2)	Severing information
4(4)	Documents have been destroyed or do not exist
5 (1)	Contents of response
6(a)	Confidential information protected by law
6(b)	Personal information concerning another person
6(c)	Release would cause financial loss or gain, or would jeopardize negotiations leading to an agreement or contract
6(c.1)	Financial, commercial, technical or scientific information
6(d)	Confidential information obtained from another government;
6(f)	Legal opinions or advice
6(f.1)	Information relating to access to or security of particular buildings, other structures or systems
6(g)	Opinions or recommendations for a Minister or the Executive Council
6(h)	Substance of proposed legislation or regulations

Application of RTIA - by Section



Application of *RTIA* - by Public Body

PUBLIC BODIES	SECTIONS OF THE ACT														
	3(3)	3(4)	3(5)	4(2)	4(4)	5(1)	6(a)	6(b)	6(c)	6(c.1)	6(d)	6(f)	6(f.1)	6(g)	6(h)
Energy	-	-	-	-	-	-	1	-	1	-	-	-	-	-	-
Environment	-	-	-	-	4	-	-	15	-	-	-	1	-	-	-
Finance	-	2	1	4	-	-	4	5	2	2	-	2	2	2	-
Health	1	2	-	2	2	2	-	3	-	1	-	-	-	2	-
Justice & Consumer Affairs	-	-	-	1	-	3	3	2	-	-	-	1	-	1	-
Natural Resources	2	-	-	2	-	-	-	2	-	1	1	1	-	3	1
Public Safety	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-
Social Development	-	-	-	-	-	-	2	2	-	-	-	-	-	-	-
Transportation	-	-	-	-	-	-	-	2	1	-	-	-	-	2	-
TOTAL	3	5	1	9	6	5	10	31	4	4	1	5	2	10	1

Reviews under *RTIA*

When an applicant was not satisfied with the Minister's response or when the response had not been provided within the prescribed timeframe of 30 days, the applicant had the option of referring the matter to the Ombudsman or to the Court of Queen's Bench for review. From April to August 2010, there were no petitions to the Ombudsman and no court referrals.

Outcomes of Total Reviews

	Upheld	Partially Reversed	Withdrawn	Active / Outstanding	Total
Ombudsman	-	-	-	-	-
Court	-	-	-	-	-
Total	0	0	0	0	0

**Part 2 – Right to Information and Protection of
Privacy Act (RTIPPA)**

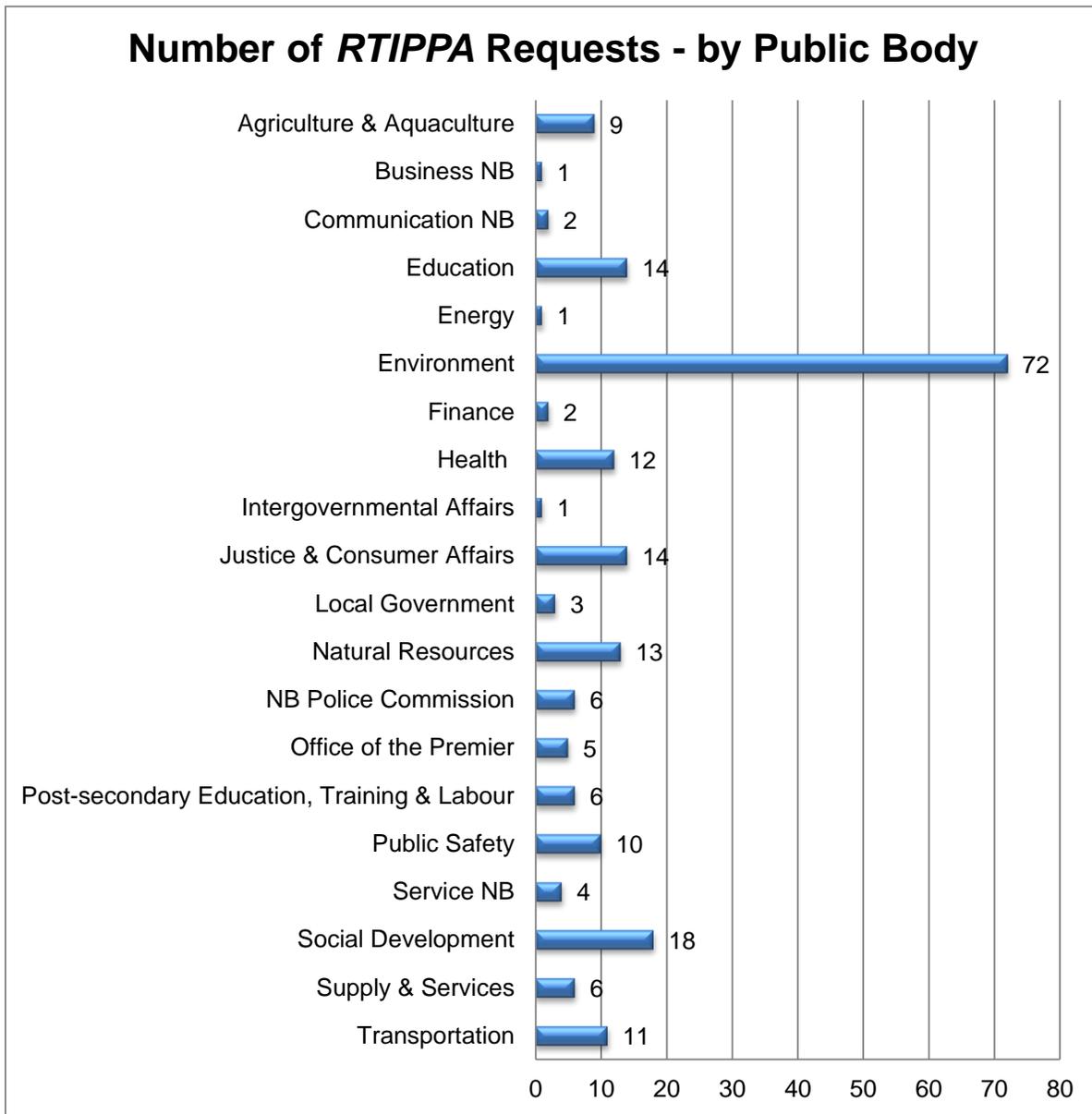
September 1st 2010 - March 31st 2011

Number of Requests Received under *RTIPPA*

Between September 1st 2010 and March 31st 2011, public bodies received a total of 210 requests. The Department of Environment had the most requests with 72 which amounts to 34 % of the requests received. The majority of the requests received by the Department of Environment were in relation to matters dealing with remediation of property (62). The Department of Social Development was next with 18 requests (9%) and both the Department of Education and Department of Justice and Consumer Affairs received 14 (7%).

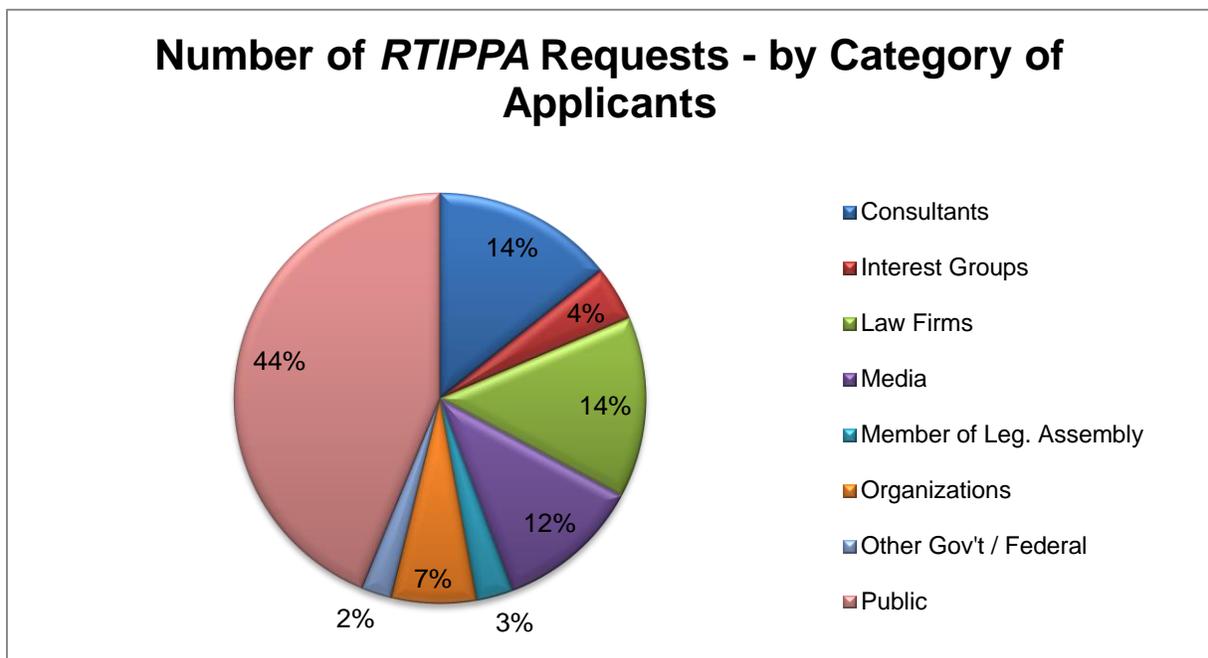
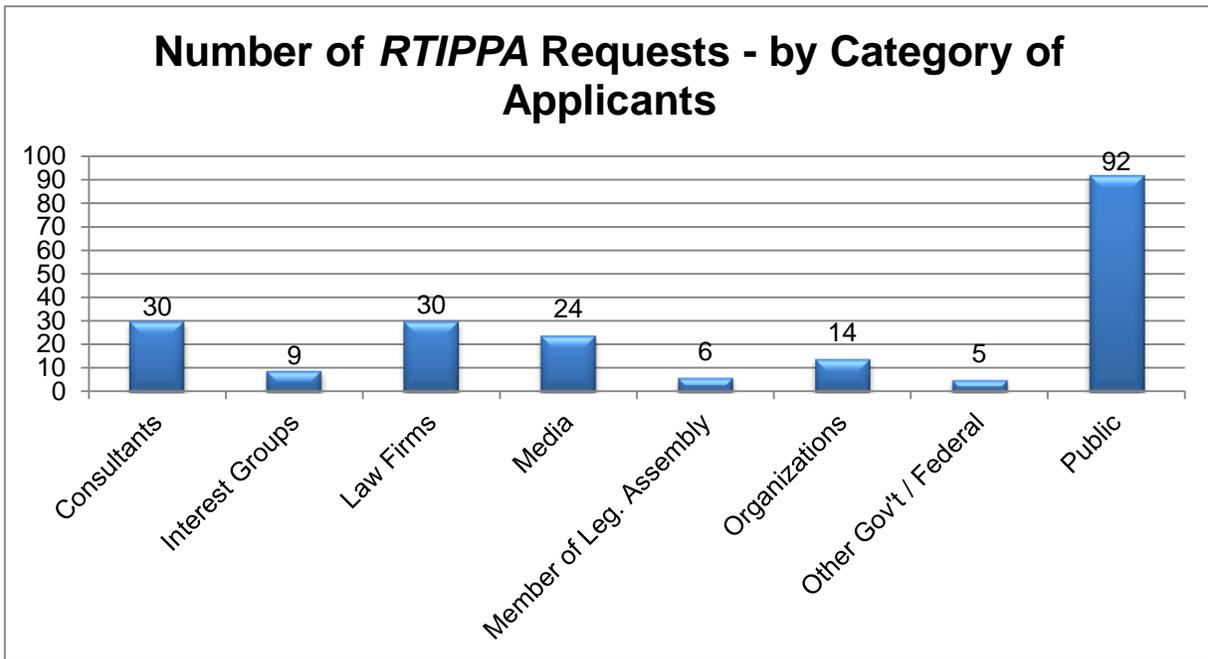
Public Body	Requests
Agriculture & Aquaculture	9
Business NB	1
Communication NB	2
Education	14
Energy	1
Environment	72
Finance	2
Health	12
Intergovernmental Affairs	1
Justice & Consumer Affairs	14
Local Government	3
Natural Resources	13
NB Police Commission	6
Office of the Premier	5
Post-secondary Education, Training & Labour	6
Public Safety	10
Service NB	4
Social Development	18
Supply & Services	6
Transportation	11
TOTAL	210

Number of *RTIPPA* Requests - by Public Body



Number of *RTIPPA* Requests - by Category of Applicants

From September 2010 to March 2011, 92 requests (44%) were submitted by the public, followed by consultants with 30 (14%), law firms with 30 (14%) and the media with 24 (12%). The 34 remaining requests were from organizations (14), interest groups (9), members of the Legislative Assembly (6), and from other governments (5).

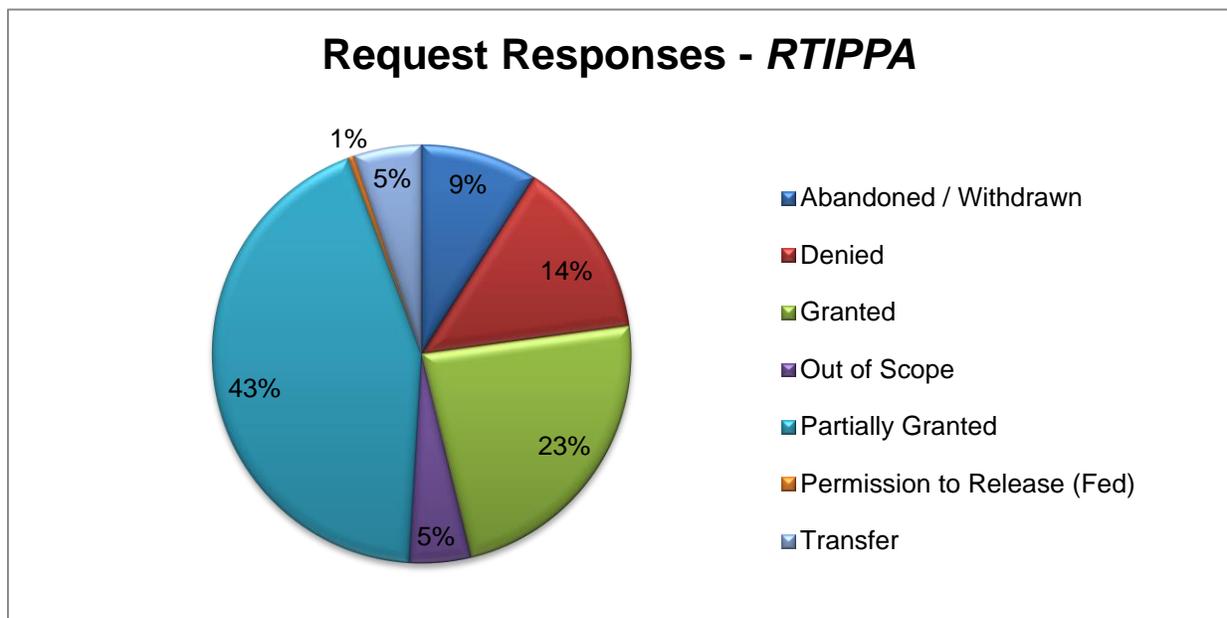
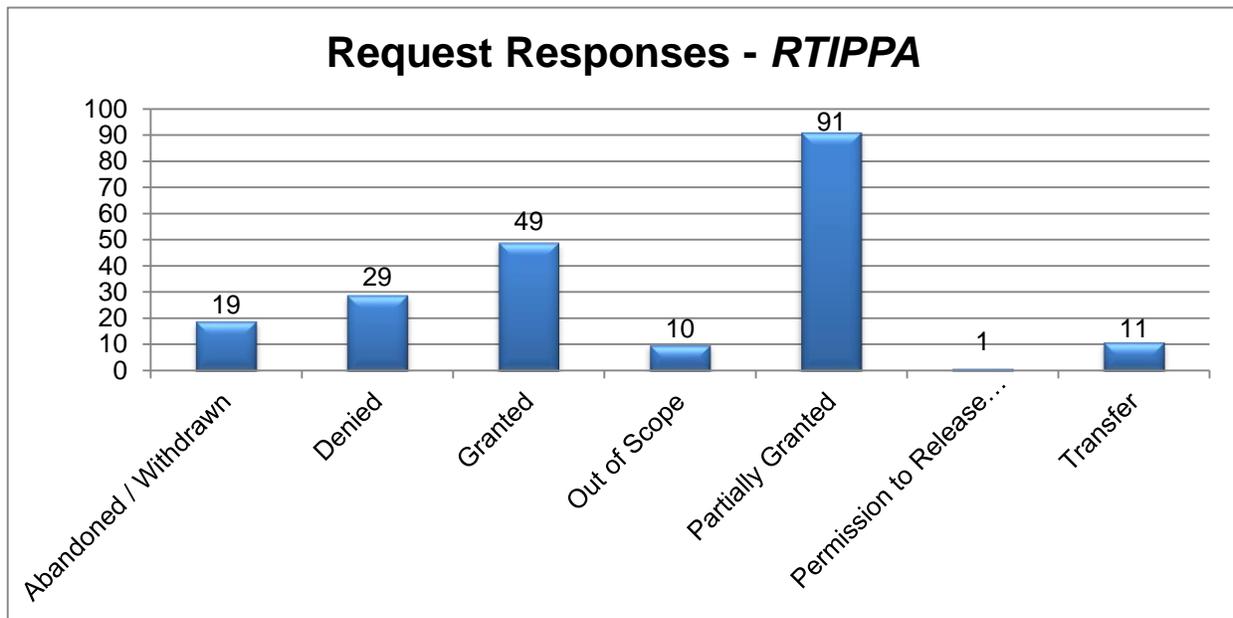


Categories of Applicants - by Public Body

	Consultants	Public	Other Gov't / Federal	MLAs	Organizations	Media	Law Firms	Interest Groups
Agriculture & Aquaculture	-	2	-	-	6	-	-	1
Business NB	-	-	-	-	-	1	-	-
Communications NB	-	-	-	-	-	-	-	2
Education	-	8	-	3	-	1	2	-
Energy	-	-	-	-	-	1	-	-
Environment	30	13	-	-	5	1	22	1
Finance	-	-	-	-	1	1	-	-
Health	-	8	-	-	-	2	1	1
Intergovernmental Affairs	-	-	-	-	-	1	-	-
Justice & Consumer Affairs	-	7	1	-	-	4	2	-
Local Government	-	3	-	-	-	-	-	-
Natural Resources	-	11	-	-	-	1	-	1
NB Police Commission	-	6	-	-	-	-	-	-
Premier's Office	-	-	1	-	1	2	-	1
Post-secondary Education, Training & Labour	-	2	2	-	-	-	-	2
Public Safety	-	3	1	-	-	5	1	-
Service NB	-	3	-	1	-	-	-	-
Social Development	-	16	-	-	1	1	-	-
Supply & Services	-	3	-	1	-	2	-	-
Transportation	-	7	-	1	-	1	2	-
TOTAL	30	92	5	6	14	24	30	9

Request Responses - RTIPPA

Public bodies disclosed or partially disclosed information 67 % of the time (includes obtaining permission to release from the federal government). A total of 40 requests (19 %) were either withdrawn, transferred, or were out of scope. Access to information was denied on 29 occasions (14%).

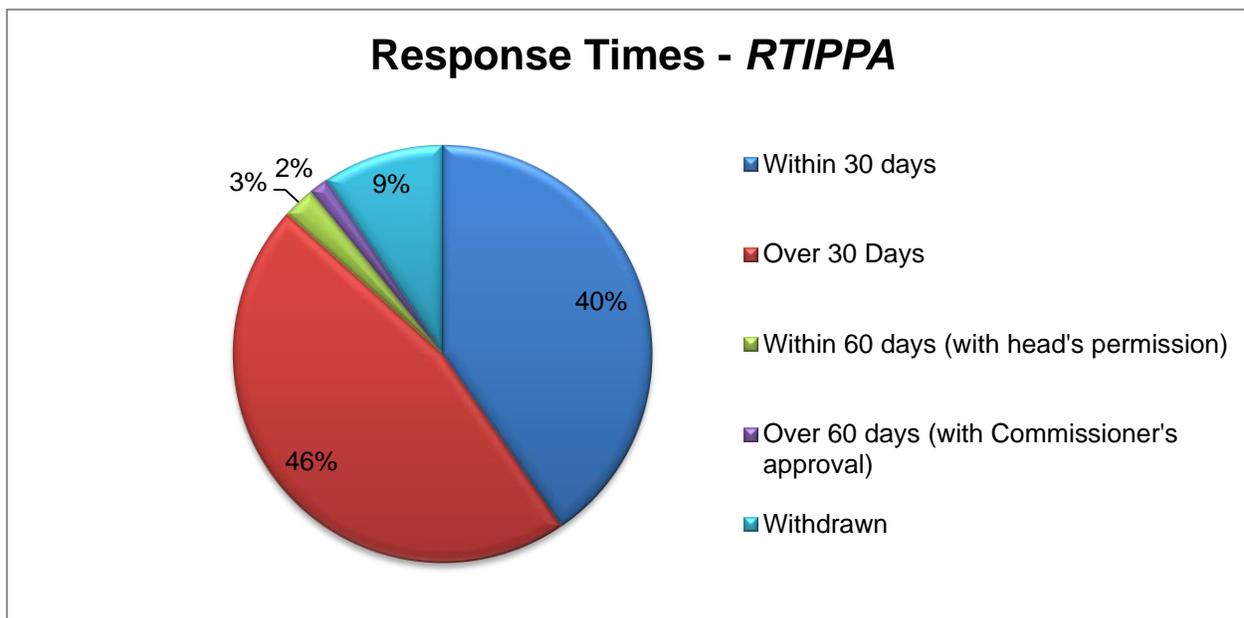
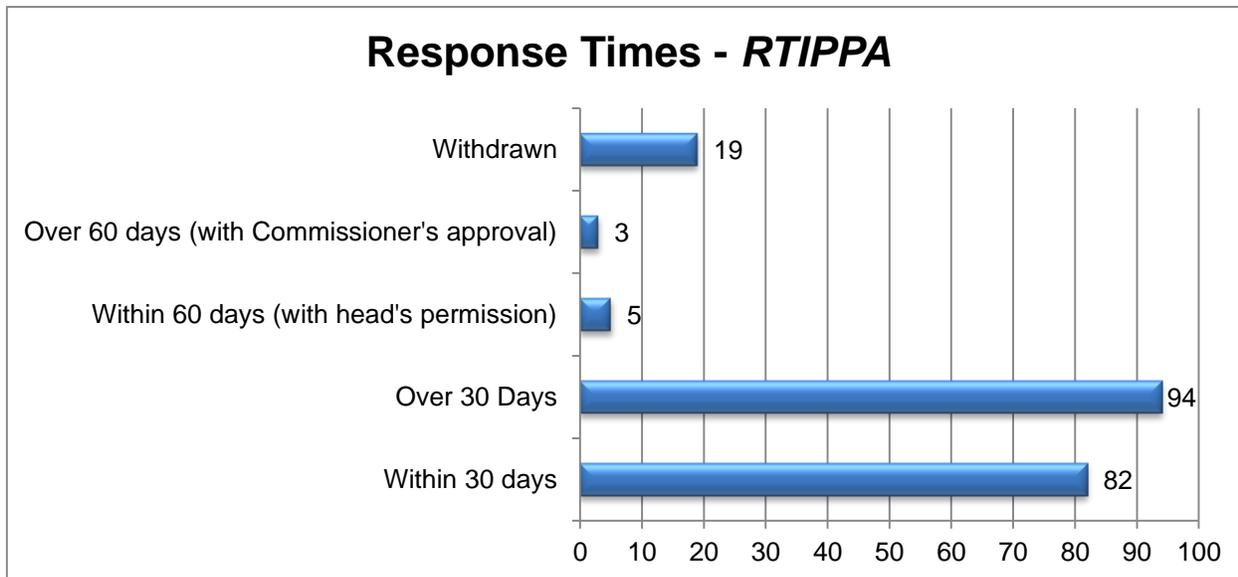


RTIPPA Request Responses - by Public Body

	Granted	Partially Granted	Denied	Withdrawn/ Abandoned	Transfer	Permission to Release	Out of Scope	Total
Agriculture & Aquaculture	1	6	2	-	-	-	-	9
Business NB	-	-	1	-	-	-	-	1
Communication NB	1	1	-	-	-	-	-	2
Education	4	5	4	-	1	-	-	14
Energy	-	-	1	-	-	-	-	1
Environment	12	40	2	18	-	-	-	72
Finance	1	-	1	-	-	-	-	2
Health	8	2	-	-	1	-	1	12
Intergovernmental Affairs	1	-	-	-	-	-	-	1
Justice & Consumer Affairs	2	2	7	1	2	-	-	14
Local Government	1	-	2	-	-	-	-	3
Natural Resources	-	5	1	-	-	-	7	13
NB Police Commission	3	3	-	-	-	-	-	6
Office of the Premier	1	1	-	-	2	-	1	5
PETL	2	3	-	-	-	1	-	6
Public Safety	2	4	3	-	1	-	-	10
Service NB	2	2	-	-	-	-	-	4
Social Development	5	10	2	-	-	-	1	18
Supply & Services	1	2	1	-	2	-	-	6
Transportation	2	5	2	-	2	-	-	11
TOTAL	49	91	29	19	11	1	10	210

Response Times - *RTIPPA*

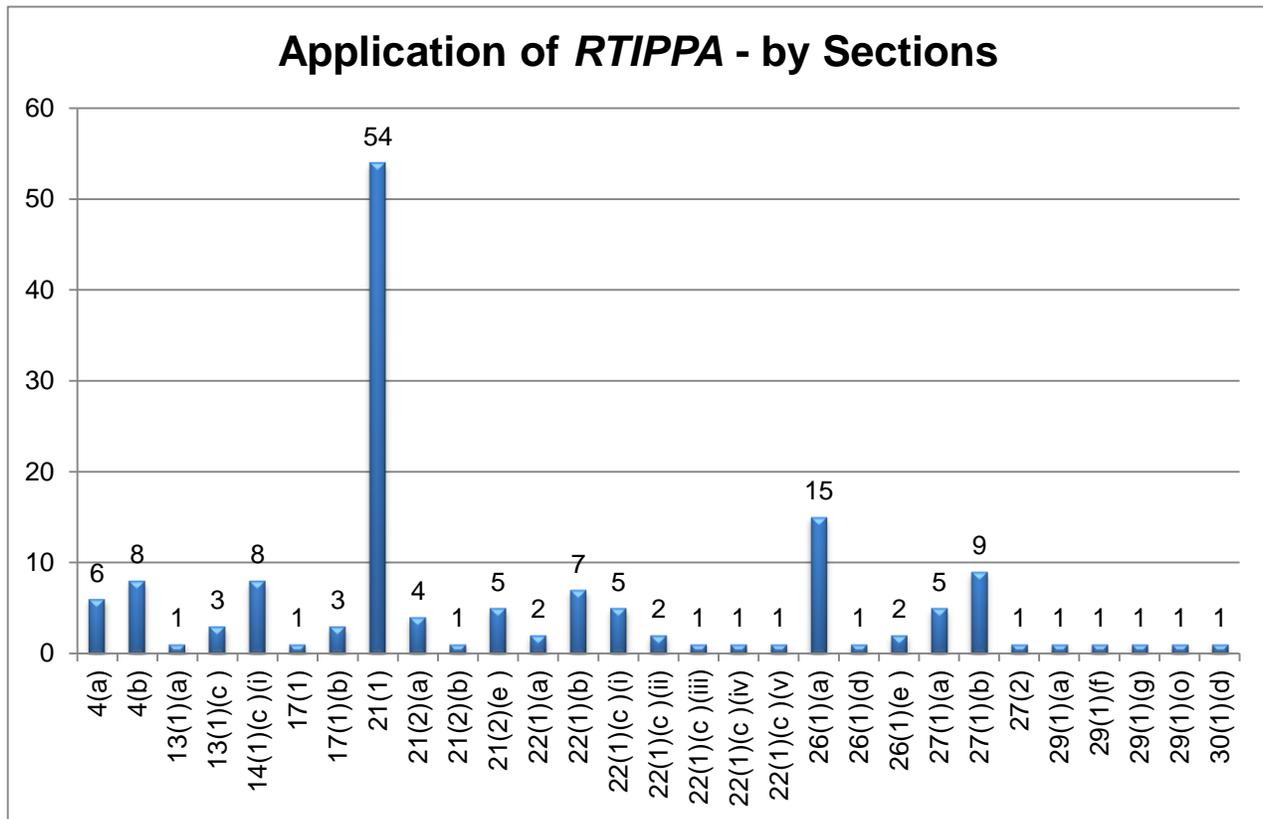
Public bodies must respond to a request within 30 days after the request is received. In certain circumstances however, *RTIPPA* allows for time extensions to be granted to the public body. The first extension is for 30 additional days and is granted by the head of the public body. If a second extension is required, application must be made to the Commissioner. If granted, the extension will be for the number of days established by the Commissioner.



Application of *RTIPPA* – by Section

When public bodies sever information from a record or decide to withhold a record, they must indicate which section of *RTIPPA* was used. The following table summarizes the sections of the *Act* that were used. Because more than one section may be cited in response to a single request, the number of occurrences does not coincide with the total number of requests recorded for this fiscal year.

Sect.	Explanation
4	Out of scope
13	Transferring a request
14	Record does not exist or can't be located
17	Executive Council confidences
21	Unreasonable invasion of third party's privacy
22	Disclosure harmful to a third party's business or financial interests
26	Advice to public body
27	Legal privilege
29	Disclosure harmful to law enforcement or legal proceedings
30	Disclosure harmful to economic and other interest of a public body



Application of RTIPPA - by Public Body

	Agriculture & Aquaculture	Business NB	Education	Energy	Environment	Finance	Health	Justice & Consumer Affairs	Local Government	Natural Resources	Post-secondary Education, Training & Labour	Public Safety	Social Dev.	Supply & Services	Transportation	TOTAL
4(a)	-	-	-	-	1	-	-	2	-	2	-	-	1	-	-	6
4(b)	-	-	-	-	1	-	-	6	-	-	-	-	-	-	1	8
13(1)(a)	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	1
13(1)(c)	-	-	-	-	-	-	1	-	-	-	-	2	-	-	-	3
14(1)(c)(i)	1	-	-	-	1	-	1	3	2	-	-	-	-	-	-	8
17(1)	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	1
17(1)(b)	1	1	-	-	-	-	-	-	-	1	-	-	-	-	-	3
21(1)	2	-	4	-	37	-	-	3	1	1	1	1	3	1	-	54
21(2)(a)	-	-	2	-	-	-	1	-	-	-	-	-	-	1	-	4
21(2)(b)	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	1
21(2)(e)	-	-	3	-	-	-	2	-	-	-	-	-	-	-	-	5
22(1)(a)	-	-	-	-	-	-	1	-	-	-	-	-	1	-	-	2
22(1)(b)	3	-	1	-	-	-	1	-	-	1	1	-	-	-	-	7
22(1)(c)(i)	2	-	1	-	1	-	-	-	-	-	-	-	-	1	-	5
22(1)(c)(ii)	-	-	-	-	1	-	-	-	-	1	-	-	-	-	-	2
22(1)(c)(iii)	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	1
22(1)(c)(iv)	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	1
22(1)(c)(v)	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	1
26(1)(a)	2	-	5	1	4	1	-	-	-	1	-	-	-	1	-	15
26(1)(d)	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
26(1)(e)	-	-	-	-	1	1	-	-	-	-	-	-	-	-	-	2
27(1)(a)	2	-	-	-	-	-	-	1	-	1	-	-	1	-	-	5
27(1)(b)	1	-	-	-	5	-	-	-	-	2	-	-	1	-	-	9
27(2)	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	1
29(1)(a)	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	1
29(1)(f)	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	1
29(1)(g)	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	1
29(1)(o)	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	1
30(1)(d)	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	1

Reviews under *RTIPPA*

If applicants are not satisfied with the decision of the public body or if the response is not received within the established timelines, they may file a complaint with the Access to Information and Privacy Commissioner or refer the matter to a judge of the Court of Queen's Bench. For the period in question, 5 matters were referred to the Court of Queen's Bench. For information and statistics on complaints filed with the Information and Privacy Commissioner, please see the commissioner's annual reports which can be found at www.info-priv-nb.ca.

Outcomes of Reviews by the Court

Public Bodies	Applicant	Response	Outcome
NB Police Commission	Public	Granted	Active
NB Police Commission	Public	Partially Granted	Active
NB Police Commission	Public	Partially Granted	Active
NB Police Commission	Public	Granted	Withdrawn
NB Police Commission	Public	Denied	Upheld