

News Release

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Ontario Government failing transparency test: Release all bids for government contracts, urges Commissioner Ann Cavoukian

Government officials are not living up to a 2004 memorandum that Premier McGuinty issued to his ministers and deputy ministers, in which he called upon them “to strive to provide a more open and transparent government,” says Ontario Information and Privacy Commissioner Ann Cavoukian.

Commissioner Cavoukian, who released her [2006 Annual Report](#) today, is basing her criticism on the type of appeals her office is receiving when government organizations refuse to disclose requested information. “In some cases,” said the Commissioner, “provincial organizations have rejected freedom of information requests for information **virtually identical** to what had already been ordered released in previous appeals. One example where this has occurred is with government contracts. I have been very clear that the contracts for goods and services should be **routinely disclosed**. Despite the Premier’s memorandum, as well as IPC orders issued to that effect, access to this basic information continues to be denied.”

To address this problem, the Commissioner is making a wide-sweeping recommendation that the government make Ontario’s purchasing system more transparent. Citing British Columbia as an example, Commissioner Cavoukian is urging the government to post the winning bid for every contract awarded by a provincial government organization to a website, accessible to the public. Further, to ensure that the entire process is transparent, the unsuccessful bids should be posted alongside the successful bid.

“While this may come as a shock to those who are used to the veil of secrecy involved in the old model of public procurement, the public deserves transparency and accountability,” said the Commissioner. “To accomplish this, the government needs to adopt a policy *requiring* the disclosure of all successful bids *and* unsuccessful bids. This policy would apply to all government requests for proposal and tender packages.”

“We await the Premier’s response.”

CULTURE OF PRIVACY

Among Commissioner Cavoukian’s other recommendations:

Develop a culture of privacy. “There is a real need,” she stressed, “for provincial and municipal government organizations and health information custodians to develop a culture of privacy.”



She cites, as an example, “a truly regrettable situation” that occurred at the Ottawa Hospital. A patient made a specific request to prohibit her estranged husband and his girlfriend, a nurse at the hospital, from having any information regarding her hospitalization, only to learn later that the nurse had been able to access her personal health information on numerous occasions.

“Unless privacy policies are interwoven into the fabric of a hospital’s day-to-day operations or a government organization’s daily operations, they will not work,” said the Commissioner. “Organizations that fall under Ontario’s three privacy *Acts* must not only educate their staff about privacy legislation and the privacy information policies and practices implemented by their organizations, they must work towards ensuring that privacy becomes embedded into their institutional culture and that staff understand how serious a privacy breach can be.”

IDENTITY

Among the major themes that her annual report explores is *Identity, the IPC and the Future of Privacy in Ontario*. “Personally-identifiable information is a special category of sensitive data that, more than ever, organizational custodians must treat as both an asset and a liability, and manage in a principled and verifiable manner,” said the Commissioner. “We may not be able to put the information genie back in the bottle, but we can set and enforce limits on permissible levels of collection, use and disclosure of personal information by organizations, vest individuals with certain rights that organizations must observe, and hold those organizations accountable for actions that impact negatively on the privacy of individuals and the security of our freedoms.”

SOCIAL NETWORKING SITES

The Commissioner is also warning university and high school students that they need to carefully consider all the potential implications before posting personal information to online social networking sites. Commissioner Cavoukian has met with university students and spoken at several high schools and universities. She also released a brochure, [*When Online Gets Out of Line – Privacy: Make an Informed Online Choice*](#), which was developed with social networking site *Facebook*. “It is important that students take the time to make informed choices about the site they use, the information they post and those with whom they choose to share their information,” said the Commissioner. “Going on ‘automatic pilot’ when online is a very bad idea.”

COURT RULINGS

Elsewhere, the annual report cites several crucial court rulings. In two landmark decisions released in late 2006, the Divisional Court affirmed, for the first time, that the Commissioner has the authority as part of her “legislative” functions to investigate and report on privacy complaints brought by members of the public against government institutions.

FOI REQUESTS SET A RECORD

Among the statistical information released by the Commissioner:

- The number of freedom of information requests filed with provincial or municipal government organizations across Ontario in 2006 – **36,739** – set an all-time high, easily

surpassing the previous record of 33,557 set in 2004. Much of this increase is due to a major jump in the number of requests made to municipalities and police services.

- The number of privacy complaint files opened under the two public sector privacy *Acts* – **170** – was the highest in nine years. (There were 101 privacy complaints in 2005.)
- The number of privacy-related complaint files opened under the *Personal Health Information Protection Act* – **183** – also set a record. (There were 102 privacy complaints under *PHIPA* in 2005.) Overall, including complaints about access to or correction of personal health information, there were 269 *PHIPA* complaint files opened in 2006.

Among other highlights, the evolution of the Commissioner's role is explored, key orders and privacy investigations are profiled, the IPC's long list of successful joint projects with organizations in both the public and private sectors is cited, IPC educational efforts are outlined, and information about the publications the IPC issued in 2006 provided.

HOW TO AVOID ABANDONED RECORDS – SAFEGUARDING HEALTH RECORDS

Following up on an order she issued late in 2006 (HO-003, which is outlined in the *High Profile Privacy Incidents* section of her annual report), the Commissioner today is also releasing a new publication titled, [*How to Avoid Abandoned Records: Guidelines on the Treatment of Personal Health Information in the Event of a Change in Practice*](#). "It is unacceptable for a health information custodian, when closing business premises, to leave behind records containing personal health information and other sensitive information," said the Commissioner. The *Guidelines*, which address privacy safeguards and the continuity of records management, outline the responsibilities of health information custodians under *PHIPA* and provide best practices to ensure that health records are never abandoned.

Commissioner Cavoukian's 2006 annual report, and the *Guidelines*, are available on the IPC's website, www.ipc.on.ca.

The Information and Privacy Commissioner is appointed by and reports to the Ontario Legislative Assembly, and is independent of the government of the day. The Commissioner's mandate includes overseeing the access and privacy provisions of the *Freedom of Information and Protection of Privacy Act*, the *Municipal Freedom of Information and Protection of Privacy Act*, and the *Personal Health Information Protection Act*, and helping to educate the public about access and privacy issues.

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