



OFFICE OF THE
PARLIAMENTARY
BUDGET OFFICER
BUREAU DU DIRECTEUR
PARLEMENTAIRE DU
BUDGET

CANADA

**Reforms to the
Office of the
Parliamentary
Budget Officer
Proposed in Bill C-44**

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Message from the Parliamentary Budget Officer

This discussion paper is intended to assist members of the Senate and the House of Commons as they study clauses 128 to 129 and 131 to 190 in Division 7 of Part 4 of Bill C-44, *An Act to implement certain provisions of the budget tabled in Parliament on March 22, 2017 and other measures* (Bill C-44).

Clause 128 amends the *Parliament of Canada Act* to make the PBO an independent officer of Parliament and recognizes that the purpose of the “independent and non-partisan” PBO is to “support Parliament”. Both are welcome changes.

However, clause 128 also contains elements that will undermine the independence and non-partisanship of the PBO and that will undercut the PBO’s ability to support Parliament. These are concerning and deserve the Senate and House of Commons’ careful scrutiny.

In particular, I wish to draw to the attention of members of both houses of Parliament to four areas of concern:

- the degree of control that the Speakers of the Senate and the House of Commons will be expected to exercise over the office of the PBO’s activities;
- the limits on the PBO’s ability to initiate reports and members’ ability to request cost estimates of certain proposals;
- the risks flowing from the PBO’s involvement in preparing cost estimates of election proposals; and
- the restrictions on the PBO’s access to and disclosure of information and the lack of an effective remedy for refusals to provide access to information.

The proposed amendments impose significant restrictions on the way the PBO can set its work plan and access information. Those restrictions will undermine PBO’s functional independence and its effectiveness in supporting parliamentarians to scrutinize government spending and hold the government to account.

In July 2016, I published [model legislation](#) for a reformed PBO. We designed the model legislation with the sole objective of enhancing the PBO’s ability to support the Senate and the House of Commons. In November 2016, I

reiterated that objective in the [report on the OPBO's activities during the 2015-16 fiscal year](#).

I look forward to working with all members of the Senate and the House of Commons as they consider these proposed reforms to my office.

Jean-Denis Fréchette
Parliamentary Budget Officer

1. Independence

1.1. Control, direction and management

Clause 128 adds section 79.01 to the *Parliament of Canada Act*, which sets out a purpose for the provisions relating to the PBO and informs the interpretation of those provisions. Section 79.01 declares that the PBO is independent and non-partisan and that the PBO's role is to support Parliament by providing analysis, including analysis of macroeconomic and fiscal policy. The purpose of the PBO providing analysis to Parliament is to raise the quality of parliamentary debate and to promote greater budget transparency. Along these lines, clause 128 amends section 79.1 of the *Parliament of Canada Act* to bring the PBO's appointment and tenure in line with officers of Parliament.

Clause 128 also adds section 79.11 to the *Parliament of Canada Act*, which provides that the PBO has the "control and management" of the office of the Parliamentary Budget Officer (OPBO) and related administrative powers, such as the power to hire employees and sign contracts. It replaces the current section 79.5 of the *Parliament of Canada Act*.

However, clause 128 also adds section 79.12, which provides that the Speaker of the Senate and Speaker of the House of Commons (the Speakers) have the "direction and control" of the OPBO. The Speakers are empowered to make orders and regulations for the government of the OPBO and the expenditure of moneys granted by Parliament to the OPBO. The Speakers may be assisted by an existing or a new committee of both houses of Parliament. Section 79.12 is identical to the provision in the *Parliament of Canada Act* that gives the Speakers direction and control over the Library of Parliament.¹

Finally, under subsection 79.11(9), the Speakers consider and approve the PBO's estimates. The Speaker of the Senate plays the same role for the Senate Ethics Officer's estimates, as does the Speaker of the House of Commons for the Conflict of Interest and Ethics Commissioner.²

Consequences for parliamentarians

The summary of Bill C-44 makes clear that clause 128's purpose is to make the PBO an independent "officer of Parliament", "separate from the Library of Parliament". Maintaining the Speakers' control over the PBO using the exact terms by which the Speakers direct and control the Library seems entirely inconsistent with the clause's stated intention.

The Speakers' consideration and approval of the PBO's estimates is appropriate. But granting the Speakers, assisted by a joint committee, the direction and control of the OPBO risks limiting the flexibility with which the OPBO can plan reports, sign contracts and reach memoranda of understanding (s. 79.11(2)).

For instance, the PBO is currently undertaking analysis of the financial impact of implementing a national pharmaceutical insurance program at the request of the House of Commons Standing Committee on Health. As part of the analysis, the PBO has, in accordance with the Library of Parliament's contracting rules, purchased data at significant cost. However, if the Speakers were to impose a threshold over which major expenses were subject to their approval, the PBO's ability to buy data and models would be restricted thereby limiting the PBO's flexibility to provide comprehensive analysis to parliamentarians.

As a result, the PBO's ability to support Senate and the House of Commons by providing them with relevant and timely analysis would be undermined.

1.2. Preparation and approval of work plan

Clause 128 adds section 79.14 to the *Parliament of Canada Act*, which requires the PBO to prepare an annual work plan and submit it to the Speakers for their approval. The approval requirement is unprecedented and represents a change to the procedures and practices of the Senate and the House of Commons.

None of the existing officers of Parliament are required to have a work plan approved by the Speakers. Ontario's Financial Accountability Officer, who plays an equivalent role to the PBO in that province, is not required to have a work plan approved. Although several parliamentary budget offices recognized by the Organisation for Economic and Cooperation and development (OECD) are required to produce work plans, only one – South Korea's National Assembly Budget Office – must have its work plan approved by the Speaker.³ The United States' Congressional Budget Office does not have a formal work plan.

The work plan, which the PBO is to prepare before the start of each fiscal year, will include the criteria for allocating resources among the aspects of the PBO's mandate; a list of matters of particular significance relating to the nation's finances or economy that the PBO believes should be brought to Senate and House of Commons' attention; and a description of the manner in which the PBO intends to prioritize research requests made by committees and members of the Senate and House of Commons.

Before submitting the work plan, the PBO is to consult the Speakers concerning the matters of particular significance on which the PBO proposes

to prepare reports. Once they have received the work plan, the Speakers consider whether to approve it. The Speakers can do so with the assistance of the chair of the committee designated or established to assist them in directing and controlling the OPBO, as well as the chairs of the Senate Standing Committee on National Finance and the House of Commons Standing Committee on Finance. After approving the work plan, the Speakers table it in the Senate and House of Commons.

Consequences for parliamentarians

Subsection 79.14(2), which requires the Speakers' approval of the PBO's work plan, undercuts the PBO's ability to provide the Senate and House of Commons with relevant and timely analysis. The requirement is also at odds with the PBO being an independent officer of Parliament.

Although the PBO is required to submit the work plan before the start of the fiscal year, subsection 79.14(2) does not specify a timeline for its approval by the Speakers. Consultations among the Speakers and up to three committee chairs may take a long time. Subsection 79.14(2) also does not specify what would happen if the Speakers failed to agree on the work plan. Likewise, it is not clear what would happen if the House of Commons were to elect a new Speaker or a new Speaker of the Senate were appointed and the new Speaker sought to change previously approved work plan before the end of the fiscal year.

Until the Speakers approve the work plan, the PBO will be unable to provide the Senate and House of Commons with reports containing analysis on matters related to the nation's finances or economy that the PBO believes should be brought to their attention (s. 79.2(1)(b)). The PBO will also need to act on his or her own judgement of how to allocate resources and prioritize requests.

If the Speakers choose to alter or add to the matters of particular significance listed in the work plan, the PBO's ability to allocate resources and prioritize requests from committees and individual members may be undermined.

Moreover, subsection 79.14(2) provides no means for the PBO to update the work plan in the course of a fiscal year. As a result, it will be difficult for the PBO to prepare new reports in response to changing circumstances related to the nation's finances or economy. Should Canada enter into a recession, be struck by a natural disaster or deploy its armed forces abroad, the PBO will be unable to provide the Senate and House of Commons with the timely analysis of the economic and financial consequences they need to hold the government to account, unless the Speakers grant their approval, expeditiously, thus increasing their responsibilities.

2. Mandate

Clause 128 modifies the PBO's existing mandate to provide analysis, research and cost estimates to Parliament and establishes a new mandate to provide cost estimates of proposals to political parties during the pre-election period.

2.1. Providing analysis, research and cost estimates to Parliament

Clause 128 amends section 79.2 of the *Parliament of Canada Act*, which sets out the PBO's mandate when Parliament is not dissolved. Under this mandate, the PBO will continue to prepare reports that analyse the budget, the economic and fiscal update or statement, the fiscal sustainability report and the government's estimates for a fiscal year (s. 79.2(1)(a)). Reports analysing these documents do not need to be approved in a work plan.

The PBO will also continue to undertake research and analysis of a matter related to the nation's finances or economy at the request of the Senate Standing Committee on National Finance and the House of Commons Standing Committees on Finance and Public Accounts (s. 79.2(1)(c)). The House of Commons Standing Committee on Government Operations and Estimates will also be able to request research and analysis (s. 79.2(1)(c)(iv)). Likewise, the PBO will continue to undertake research and analysis into the estimates at the request of a committee assigned to study estimates (s. 79.2(1)(d)) and to estimate the financial cost of a proposal at the request of any committee (s. 79.2(1)(e)).

Bill C-44 makes two significant changes to the PBO's mandate. Unless they are listed in a work plan approved by the Speakers, the PBO will no longer be able to prepare reports on the state of the nation's finances and trends in the national economy on his or her own initiative (s. 79.2(1)(b)). Likewise, members of the Senate and the House of Commons will only be able to request an estimate of the financial cost of a proposal that they are considering making (s. 79.2(1)(f)).

Subsection 79.2(5) provides that the PBO discontinues work on any requests when Parliament is dissolved, which codifies the PBO's current practice. Subsection 79.2(5) does not, however, specify whether the PBO is also to stop work on reports analysing government documents or those prepared in accordance with an approved work plan.

Consequences for parliamentarians

Under paragraph 79.2(1)(a), the PBO is allowed to provide parliamentarians analysis of only certain regular government documents, like the annual budget. This limits PBO's ability to respond and analyse the government initiatives that occur outside the regular budget cycle. For example, if the government were to announce significant changes to the OAS or EI program in the middle of the fiscal year, the PBO would not be allowed to provide analysis on the economic and fiscal consequences of those changes.

Paragraph 79.2(1)(b) limits the PBO's ability to initiate reports in relation to the nation's finances or economy. As was discussed in the previous section of this paper, unless the PBO can update an approved work plan during the fiscal year, this may make it more difficult for the PBO to respond to changing circumstances and continue to provide timely and relevant analysis.

The effect of paragraph 79.2(1)(f) is that the PBO will be required to determine whether a member is actually considering making a proposal. The paragraph will accordingly prevent a member of the Senate or the House of Commons from requesting a cost estimate of a proposal made by the government.

Since, for instance, the PBO's costing of defence procurements is done entirely at the request of individual members, the PBO will no longer be able to undertake such costings (unless they are requested by a committee). The PBO's inability to provide such analysis will undermine the Senate and House of Commons' ability to hold the government to account for its procurement decisions.

Had these restrictions on the PBO's mandate been in place when the first PBO was appointed in 2008, it would not have been possible for the OPBO to prepare a number of major reports, including ones on the financial impact of implementing the *Truth in Sentencing Act*, acquiring F-35 fighter jets for the Royal Canadian Air Force, changing the age of eligibility for Old Age Security payments and legalizing cannabis.

2.2. Providing, tabling and publishing reports

Clause 128 adds subsections 79.2(2), (3) and (4) and section 79.22 to the *Parliament of Canada Act*.

The PBO must provide a report analysing government documents or prepared in accordance with a work plan to the Speakers for tabling (s. 79.2(2)). The PBO can publish such a report one business day after providing it to the Speakers, even if the Speaker has not yet tabled the report.

Similarly, the PBO must provide a report prepared in response to a request made by a committee or a member to the requester one business day before the PBO makes the report available to the public (s. 79.2(3), (4)). Such reports need not be tabled.

Within three months of the end of the fiscal year, the PBO must submit an annual report on his or her activities in fulfilment of the mandate to the Speakers for tabling. The PBO cannot publish the report until one of the Speakers has tabled the report in the house over which he or she presides (s. 79.22).

Consequences for parliamentarians

Subsection 79.2(2) does not significantly restrict the PBO's ability to publish reports because the PBO need only to provide the report to the Speakers before publishing it, rather than waiting for the Speakers to have tabled the report.

The requirement that the PBO provide a copy of a report to the Speakers or the requesting committee or member one business day before publishing the report creates a risk that the report will be leaked. Since Bill C-44 does not explicitly extend parliamentary privilege to the PBO, it is not clear whether such the leaking of a report could be considered a breach of privilege.⁴

2.3. Providing cost estimates to political parties

Clause 128 would add section 79.21 to the *Parliament of Canada Act*, which confers a new mandate on the PBO to estimate the financial cost of a proposal at the request of a recognized party in the House of Commons or a member of that House who is not a member of a recognized party (requester) (s. 79.21(1), (17)).

Requests can be made starting 120 days before the date fixed for a general election or the date on which the Governor General dissolves Parliament.⁵ Requests can be made until the day before the general election (s. 79.21(2)). Requests are to be made in writing and the PBO can ask for additional information from the requester (s. 79.21(3), (4)).

If the PBO is unable to complete the request because of insufficient time and/or information, the PBO must notify the requester in writing (s. 79.21(15)). If the proposal which the PBO declined to request is publicly announced, the PBO must publish the request and the reasons that the PBO did not complete the request before the end of the day before the general election (s. 79.21(16)).

A requester can withdraw a request any time before the PBO provides the request with the cost estimate for the proposal (s. 79.21(11)). Once the requester has received the estimate, the requester must inform the PBO when the proposal has been publicly announced; the PBO must then publish the report (s. 79.21(12), (13), (14)). The PBO cannot publish a report after the general election.

Section 79.21 also allows the PBO to request an agreement with a department to allow the department to provide assistance in preparing cost estimates, including access to information. The minister presiding over the department has discretion over whether to enter into an agreement (s. 79.21(5)). The PBO cannot provide a minister with any details about a request for a cost estimate (s. 79.21(6)).

If the minister agrees that his or her department will provide assistance, the deputy minister sets the terms of the assistance (s. 79.21(7), (10)). The PBO cannot disclose the identity of a requester to the deputy minister and any public servants providing assistance to the PBO (s. 79.21(8)).

The department cannot disclose, to any person other than the PBO, any information obtained or created in the provision of assistance to the PBO (s. 79.21(9)). The PBO cannot disclose such information unless it is essential for the performance of the PBO's mandate and the information is either already publicly available or the deputy minister consents to its disclosure (s. 79.5). Clause 157 amends Schedule II to the *Access to Information Act* to ensure that such information is not accessible through a request under that Act.⁶

Consequences for parliamentarians

Section 79.21 represents the most significant departure from the PBO's role of supporting Parliament set out in section 79.01. Its implementation risks seriously undermining the PBO's perceived independence and non-partisanship.

The experience of other countries whose parliamentary budget offices cost election proposals suggests that the costings are likely to be labour-intensive and costly. The PBO's ability to perform other aspects of the PBO's mandate, including fulfilling requests from members and committees, could be undermined during the pre-election period.

In effect, this complex provision makes the PBO part of the political parties' policy development process and will turn PBO into a research bureau for all the political parties represented in the House of Commons in the pre-election period.

Furthermore, since there is no limit on how many requests the parties can make, the PBO will have to prioritize the requests, which could be perceived as favouring one party over another. This will undermine PBO's non-partisanship and credibility.

Moreover, the PBO's costings (and the assistance provided by departments in preparing those costings) may be treated by the Chief Electoral Officer as a "service" provided by a government or other public agency to a political party and therefore, as part of the party's election expenses.⁷

3. Information

3.1. Entitlement to access information

Clause 128 replaces sections 79.3 and 79.4 of the *Parliament of Canada Act*.

Together, the new versions of those sections expand the scope of information to which the PBO is entitled to free and timely access to *all information* in the control of a department of a department or Crown corporation that is required for the performance of the PBO's mandate.

Consequences for parliamentarians

Subsection 79.4(1) expands the PBO's access to information. In the past, departments have refused to provide the PBO requested information on the grounds that the information is not "financial or economic data". Departments will no longer have any basis to make such arguments. Likewise, the PBO will now have access to information under the control of Crown corporations, including Canada Post and Via Rail Canada. This represents a marginal improvement over the PBO's current access information.

3.2. Restrictions on access to information

Clause 128 adds subsection 79.4(2) to the *Parliament of Canada Act*, which maintains the existing restrictions on the PBO's access to information.⁸

Consequences for parliamentarians

Bill C-44 leaves in place three restrictions that undermine the PBO's ability to provide analysis to the Senate and House of Commons.

The wording of subsection 79.4(1) means that a department or Crown corporation will still be able to deny the PBO access to information if the department or corporation believes that the information is not required for the performance of the PBO's mandate. This is even the case for information the PBO requires to fulfil a request made by member or committee of the Senate or House of Commons (s. 79.2(1)(c) to (f)).

Subsection 79.4(2)(c) incorporates statutory restrictions listed in Schedule II to the *Access to Information Act*, including one that prevents the Canada Revenue Agency from providing taxpayer information to the PBO.⁹ Without

access to such information, which the Department of Finance uses to design and evaluate tax measures, the PBO cannot fully analyse the financial impact of tax changes, even though such analysis is at the core the PBO's mandate. By contrast, the Auditor General has access to taxpayer information.¹⁰

Subsection 79.4(2)(d) prevents the PBO from accessing economic and financial analysis contained in Cabinet confidential documents. For instance, a memorandum to Cabinet proposing a measure usually contains an estimate of the cost of implementing the measure. If the PBO were to examine the measure, the PBO cannot access the estimate prepared by the public service. The PBO's inability to access the estimate makes it more costly and difficult to analyse the measure and ultimately undermines the PBO's ability to provide timely and relevant analysis to the Senate and the House of Commons. By contrast, both the Auditor General and Ontario's Financial Accountability Officer have access to certain Cabinet confidential information through orders-in-council.¹¹

Bill C-44 is also silent on whether the PBO's staff will be required to comply with any security requirements and take any oath of secrecy applicable to a department. In the past, the Department of National Defence has refused to provide the PBO with information concerning defence procurement for security reasons, even though there is no security exception to the PBO's access to information and no impediment to the PBO's staff receiving the necessary clearance. By virtue of provisions in their enabling legislation, several officers of Parliament, including the Auditor General, have appropriately cleared staff who can access sensitive information.¹²

3.3. Remedy to ensure access to information

Bill C-44 does not give the PBO access to a remedy where a department or a Crown corporation refuses to comply with an information request made by the PBO.

Under a motion adopted by the Standing Joint Committee on the Library of Parliament in March 2015, if a department refuses to comply with an information request, the PBO notifies the chair of a committee referred to in the PBO's mandate. The PBO then asks the committee to use its powers to send for papers and records to obtain the information on the PBO's behalf. Since this parliamentary remedy was established, departments' compliance with information requests has increased.

Since the PBO will no longer be an officer of the Library of Parliament, the parliamentary remedy established by the Standing Joint Committee on the Library of Parliament will no longer be available to the reformed PBO. By contrast, Ontario's Financial Accountability Officer has a statutory parliamentary remedy.¹³

Clause 159 amends subsection 2(2) of the *Federal Courts Act* to add the PBO to the list of institutions not considered a “federal board, commission or tribunal” for the purposes of that Act.¹⁴ As a result, the PBO will no longer be able to refer a question of law or jurisdiction for hearing and determination by the Federal Court.¹⁵ The PBO referred questions to the Federal Court in 2013, seeking to clarify the scope of the PBO’s mandate and access to information.¹⁶

Consequences for parliamentarians

If the PBO does not have access to an effective remedy, a department or Crown corporation can refuse to comply with an information request without facing any consequences. The PBO’s access to information would be undermined and, as a result, the PBO would be less able to provide relevant and timely analysis to the Senate and the House of Commons.

The PBO would need to prioritize requests from members and committees that can be completed using public information and may not be able to fulfil some requests altogether. The PBO may not be able to provide comprehensive analysis of government documents or matters of particular significance related to the nation’s finances or economy.

3.4. Confidentiality and disclosure of information

Clause 128 replaces section 79.5 of the *Parliament of Canada Act*. The new provision changes the standard for determining whether the PBO can disclose information received from a department or a Crown corporation.

As now, the disclosure must be essential for the performance of the PBO’s mandate, but section 79.5 imposes a new requirement: the information must either already be publicly available or the department or Crown corporation that originally provided the information must have *consented* to its disclosure.¹⁷

The PBO can currently disclose any financial or economic data that is essential for the performance of his or her mandate, unless the information falls under certain sensitive categories defined by reference to the *Access to Information Act*.¹⁸

The Auditor General is not subject to any statutory disclosure restrictions. Ontario’s Financial Accountability Officer (FAO) can disclose information if its disclosure is essential for the performance of the FAO’s mandate and the information does not fall under certain sensitive categories.¹⁹

Consequences for parliamentarians

The PBO generally does not disclose raw information provided by a department or Crown corporation. Instead, the PBO usually publishes analysis based on such information.

Section 79.5 may, however, prevent the PBO from publishing analysis in a form that, according to a department or a Crown corporation, discloses the information on which it was based. Unless the information is already publicly available, the PBO might be required to obtain the department or Crown corporation's consent. If the department or Crown corporation refuses, it is not clear what remedy, if any, would be available to the PBO.

As a result, the PBO may be increasingly required to rely on publicly available information. This would undermine the PBO's ability to provide the Senate and House of Commons with timely and relevant analysis, as public information is often incomplete and frequently published months, if not years, after the Senate and the House of Commons need analysis to perform their constitutional functions.

Notes

1. *Parliament of Canada Act*, RSC 1985, c P-1, s. 74.
2. *Ibid*, ss. 20.4(8), 84(8).
3. Lisa von Trapp, Ian Lienert & Joachim Wehner, "Principles for independent fiscal institutions and case studies" (2016) *OECD Journal on Budgeting*.
4. Bill C-44 does not explicitly extend parliamentary privilege to the PBO. By contrast, the Conflict of Interest and Ethics Commissioner and Senate Ethics Officer carry out their "duties and functions...within the institution[s]" of the House of Commons and Senate, respectively: *Parliament of Canada Act*, ss 20.5(1), 86(1). They "enjoy the privileges and immunities of [their respective house of Parliament] and its members when carrying out those duties and functions": *Parliament of Canada Act*, ss 20.5(2), 86(2).
5. *Constitution Act, 1867*, s. 50; *Canada Elections Act*, SC 2000, c 9, ss. 56.1–56.2.
6. See *Access to Information Act*, RSC 1985, c. A-1, s. 24(1).
7. *Canada Elections Act*, s. 376(3)(e).
8. There are four restrictions under subsection 79.4(2): (a) personal information, as defined under section 19 of the *Access to Information Act*; (b) information protected by various provisions listed under Schedule II to the *Access to Information Act*; (c) information protected by solicitor-client privilege, professional secrecy of advocates and notaries or litigation privilege; and (d) confidences of the Queen's Privy Council for Canada, as defined under subsection 39(2) of the *Canada Evidence Act*, RSC 1985, c. C-5.

The opening words of subsection 79.4(1) also mean that the PBO is subject to any other statutory restrictions that *explicitly* extend to the PBO.

9. *Access to Information Act*, Schedule II, citing *Income Tax Act*, RSC 1985, c. 1 (5th Supp), s. 241.
10. *Ibid*, s 241(4)(e)(ii), citing *Auditor General Act*, RSC 1985, c. A-17, s. 13.
11. PC 1985-3783; PC 2006-1289; Ontario, OC 1412/2016.
12. *Access to Information Act*, s 61; *Auditor General Act*, s 13(3); *Privacy Act*, RSC 1985, c. P-21, s. 62; *Official Languages Act*, RSC 1985, c. 31 (4th Supp), s. 71; *Public Servants Disclosure Protection Act*, SC 2005, c. 46, s. 43.
13. *Financial Accountability Officer Act, 2013*, SO 2013, c. 4, s 12(5). See also *Financial Accountability Officer, Annual Report 2015-16* (Toronto: Queen's Printer for Ontario, 2016).
14. The other institutions listed subsection 2(2) of the *Federal Courts Act*, RSC 1985, c. F-7, are the Senate, the House of Commons, the committees and members of those houses, the Senate Ethics Officer, the Conflict of Interest

and Ethics Commissioner (as it concerns the Commissioner's mandate under the *Parliament of Canada Act*), and the Parliamentary Protective Service.

15. *Federal Courts Act*, s. 18.3(1) limits the power to refer questions of law, jurisdiction, practice or procedure to the Federal Court to federal boards, commissions and tribunals.
16. *Page v Mulcair*, 2013 FC 402. Although the Federal Court declined to answer the questions, the Court acknowledge the PBO's ability to bring references in the future.
17. If the PBO received the information as part of the assistance provided by a department in costing an election proposal (subsection 79.21(9)), the deputy minister consents on behalf of the department. Otherwise, the minister consents on the department's behalf.
18. Currently, the PBO cannot disclose information which was obtained in confidence from another government (subsection 13(1) of the *Access to Information Act*), information whose disclosure could be injurious to federal-provincial relations (section 14), information which relates to the federal government's economic interests or those of certain other public institutions (sections 18–18.1, 20.1) and third party information (paragraphs 20(1)(b)–(d)).
19. *Financial Accountability Officer Act, 2013*, s. 13.