HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

OFFICE OF THE LAW CLERK AND
PARLIAMENTARY COUNSEL
BUREAU DU LÉGISTE ET
CONSEILLER PARLEMENTAIRE

**BY EMAIL**

December 17, 2024

The Honorable Greg Fergus, P.C., M.P.
Speaker of the House of Commons
House of Commons
Ottawa, ON K1A 0A6
Speaker.President@parl.gc.ca

DEC. 17 DÉC. 2024
SESSIONAL PAPER
DOCUMENT PARLEMENTAIRE
8530-441-49
HOUSE OF COMMONS
CHAMBRE DES COMMUNES

**Subject:** Notice pursuant to the House of Commons' Order of June 10, 2024

Dear Mr. Speaker:

I am writing further to my letters of July 17, August 21, September 16, October 21, and November 18, 2024, and pursuant to the Order of the House of Commons of June 10, 2024 (the "Order") requesting the production of documents from the government, Sustainable Development Technology Canada (SDTC) and the Auditor General of Canada. The Order states, in part, that:

> (h) the Law Clerk and Parliamentary Counsel shall promptly thereafter notify the Speaker whether each entity produced documents as ordered, and the Speaker, in turn, shall forthwith inform the House of the notice of the Law Clerk and Parliamentary Counsel but, if the House stands adjourned, the Speaker shall lay the notice upon the table pursuant to Standing Order 32(1); and
>
> (i) the Law Clerk and Parliamentary Counsel shall provide forthwith any documents received by him, pursuant to this order, to the Royal Canadian Mounted Police [RCMP].

On November 27, 2024, the Auditor General of Canada provided me with more documents belonging to Innovation, Science and Economic Development Canada, with the mention that other documents could be provided later. The letter from the Auditor General, including its attachments, is reproduced in the Annex.

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Further, I can confirm that my Office provided the RCMP with USB keys containing all the documents I have received to date from the government, SDTC and the Auditor General, in accordance with subparagraph (i) of the Order.

I will continue to notify you should I receive other documents pursuant to the Order.

As stated above, paragraph (h) of the Order provides that, as Speaker, you must forthwith inform the House of this notice.

Sincerely,

Michel Bédard
Law Clerk and Parliamentary Counsel

Encl.

# ANNEX

Office of the Auditor General of Canada
Bureau du vérificateur général du Canada

27 November 2024

Mr. Michel Bédard
Law Clerk and Parliamentary Counsel
Office of the Law Clerk and Parliamentary Counsel
131 Queen Street
Floor 7, Room 73
Ottawa, Ontario K1A 0A6

RE: House of Commons Order to Produce Documents

Dear Mr. Bédard:

I am writing further to the letter from the Clerk of the House of Commons, dated 11 June 2024, and my previous correspondence, dated 10 July 2024 and 13 September 2024, which is attached for reference. Please find enclosed additional documents belonging to Innovation, Science and Economic Development Canada (ISED) that I am able to provide at this time. I will contact your office when there is further documentation that I can provide to respond to the House's Order.

It is my understanding that you have received documents from the government and SDTC, and that documents are being provided in tranches. As noted in my letters of 10 July 2024 and 13 September 2024, the Auditor General Act requires me to comply with the security requirements that the government applies to its records. My office is continuing to communicate with the government to determine whether confidentiality and security requirements have been applied to specific documents that have been provided to you.

My expectation, as confirmed with your office, is that the information we are providing to you is for the sole purpose of transmission to the RCMP as contemplated by the House of Commons order and will otherwise be held in strict confidence.

Yours sincerely,

Karen Hogan, FCPA
Auditor General of Canada
240 Sparks Street
Ottawa, Ontario K1A 0G6

Enclosures

c.c.: Mr. Eric Janse, Clerk of the House of Commons

Office of the
Auditor General
of Canada

Bureau du
vérificateur général
du Canada

13 September 2024

Mr. Michel Bédard
Law Clerk and Parliamentary Counsel
Office of the Law Clerk and Parliamentary Counsel
131 Queen Street
Floor 7, Room 73
Ottawa, Ontario K1A 0A6

RE: House of Commons Order to Produce Documents

Dear Mr. Bédard:

I am writing further to the letter from the Clerk of the House of Commons, dated 11 June 2024, and my letter, dated 10 July 2024, which is attached for reference. Please find enclosed documents belonging to Sustainable Development Technology Canada (SDTC) that I am able to provide at this time. I will contact your office when there is further documentation that I can provide to respond to the House's Order.

It is my understanding that you have now received some documents from the government and SDTC, and that documents are being provided in tranches. As noted in my letter of 10 July 2024, the Auditor General Act requires me to comply with the security requirements that the government applies to its records. My office is communicating with the government to determine whether confidentiality and security requirements have been applied to specific documents that have been provided to you.

My expectation, as confirmed with your office, is that the information we are providing to you is for the sole purpose of transmission to the RCMP as contemplated by the House of Commons order and will otherwise be held in strict confidence.

Yours sincerely,

Karen Hogan, FCPA
Auditor General of Canada
240 Sparks Street
Ottawa, Ontario K1A 0G6

Enclosures

c.c.: Mr. Eric Janse, Clerk of the House of Commons

Office of the Auditor General of Canada
Bureau du vérificateur général du Canada

10 July 2024

Mr. Eric Janse
Clerk of the House of Commons
House of Commons
Ottawa, Ontario K1A 0A4

Dear Mr. Janse:

I am writing further to your letter, dated 11 June 2024, which informed me that the House of Commons adopted an order to deposit certain documents with Michel Bédard, Law Clerk and Parliamentary Counsel. This order includes the production of documents which I relied on in preparing Report 6—Sustainable Development Technology Canada (SDTC), in addition to any specific documents listed in the order that were obtained by my Office from the government or SDTC.

The objective of the order appears to be about ensuring that the Royal Canadian Mounted Police (RCMP) has access to the government's information, and the information in our audit file. I share the view that Commissioner Duheme expressed to House of Commons Standing Committee on Public Accounts (PACP) on June 18, 2024—the OAG has a strong working relationship with the RCMP that is grounded in a well-established process to access information in our audit files. This is important because of the rights established in the Canadian Charter of Rights and Freedoms that apply to criminal proceedings, and because the courts play an important role in ensuring that information obtained by law enforcement respects those rights. In the past the RCMP has obtained production orders to ensure that information from the OAG has been obtained legally and can be used when a criminal prosecution is launched.

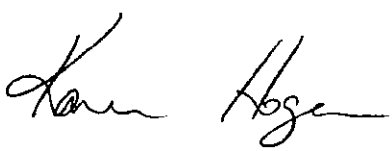
Where the OAG is of the view that activities may be of a criminal nature, we promptly inform the RCMP. As we did not reach this conclusion in our audit of SDTC, we did not engage with the RCMP about our audit findings before my report was presented to Parliament. Based on recent communications with the RCMP about this order, we confirmed that the RCMP would seek a production order before requesting any documents should they deem them necessary to any investigation. This would be consistent with well-established past practice.

In any event, I am not able to respond to the order at this time. Fundamentally, the records covered by the order belong to the government and SDTC. Any documents that the OAG created during the audit, and upon which I relied in preparing my audit report, derived from those records. Subsection 13(3) of the *Auditor General Act* requires me to comply with the security requirements that the government applies to records. It is my understanding that the government is currently in the process of considering what can be provided in response to the order. As a result, I must wait for the government to make that determination before responding to ensure that I am complying with government security requirements.

It is also important to note that I informed PACP on 10 June 2024 that the requirement to produce my audit file to Mr. Bédard compromises my independence, and is also likely to discourage departments, agencies, and Crown corporations from providing me free and timely access to the information required for my audits going forward. Since that time, Mr. Bédard has informed my Office that he will retain copies of any documents provided after sending them to the RCMP for as long as necessary to ensure the integrity of the process contemplated by the order. This increases my concerns, as I will have no ability to influence how those documents may be used in the future.

My commitment to Parliamentarians is always to provide relevant and impactful audits to assist them in their work. To maintain my independence and ability to do so, I have been guided in my response by the upmost respect for Parliament and the spirit of the House of Commons order to ensure the RCMP has access to the information it needs to enforce the laws of Canada.

Yours sincerely,



Karen Hogan, FCPA
Auditor General of Canada
240 Sparks Street
Ottawa, Ontario K1A 0G6

c.c.: Michel Bédard, Law Clerk and Parliamentary Counsel
John Williamson, Chair, Standing Committee on Public Accounts
Jean Yip, Vice-Chair, Standing Committee on Public Accounts
Nathalie Sinclair-Desgagné, Vice-Chair, Standing Committee on Public Accounts