

May 2, 2016

Paul Evans  
Deputy Minister, Ministry of the Environment and Climate Change  
Ferguson Block, 11th Floor  
77 Wellesley St. W  
Toronto, Ontario  
M7A 2T5

**RE: Your Response to FAO Information Request 1507-01**

Dear Deputy Minister Evans:

Thank you for your memorandum, received April 29, 2016, in response to my information request of April 6, 2016 (*FAO Information Request FA1507-01*) relating to analysis being undertaken by my office concerning the proposed cap and trade program.

My mandate as Financial Accountability Officer is to provide the Legislative Assembly of Ontario with independent analysis of the state of the Province's finances, including the budget, estimates, and the financial impact of public bills and policy proposals.

To support this mandate, section 12(1) of the Act requires that,

every ministry of the Government of Ontario and every public entity shall, on request, give the Financial Accountability Officer, free of charge and in a timely manner, any financial, economic or other information that is in the custody or under the control of the ministry or the public entity and that the Financial Accountability Officer believes to be necessary to perform his or her duties under this Act.

As such, your ministry is required to provide me with information in your custody that I believe to be necessary to perform my duties. There were a number of deficiencies in your memorandum response which I have detailed in attachment 1, but I would like to highlight the following:

1. **Information not provided:** relevant information in the custody of your Ministry was not provided;
2. **Reliance on Cabinet record exception without justification:** an exception to Ministry's legal duty to provide information exists under section 12(2) of the Act if the record would "reveal the substance of deliberations of the Executive Council or its committees..." This exception was relied upon to withhold information in connection with my request for information about the costs of the cap and trade program. Where records in connection with an information request are considered to be a Cabinet record for the purposes of the Act, please provide a description of the document and the reason why you are of the opinion that section 12(2) of the Act applies;
3. **Reliance on Bill 172, *Climate Change Mitigation and Low-Carbon Economy Act, 2016, being before the Legislature:*** subsection 12(1) of the Act requires your ministry to provide me with any information in your custody that I believe necessary to perform my duties. There is no exception to your duty that allows you not to provide me with information concerning the planned implementation of bills currently before the Legislature. Such an exception would contradict the spirit of the Act, which gives me the mandate to provide the Legislative Assembly with analysis of the impact that bills currently before the Legislature would have on the Province's finances. Although I acknowledge that Bill 172 may be amended before enactment and related regulations remain in development, you are nevertheless required to provide me with any relevant information in your custody.

At this time, I would ask that staff from your ministry undertake a second review of *FAO Information Request FA1507-01*, dated April 6, 2016, with a view to complying with the legal duty under the Act for your Ministry to give information as requested.

Please provide updated information by 12:00 noon on May 6, 2016 (in a machine readable format, where available). Within this timeframe, I, or members of my staff, would be pleased to meet with staff from your ministry if further clarification, or assistance in any other form, is required.

Please also be advised that I reserve my right to notify the Speaker and the Chair of the Standing Committee on Finance and Economic Affairs under subsection 12(5) of the Act, if I am of the opinion that your ministry has failed to comply with *FAO Information Request FA1507-01*.

Sincerely,

A handwritten signature in blue ink, appearing to read 'SLC', with a small flourish at the end.

Stephen LeClair  
Financial Accountability Officer

Enclosures: (2)

1. Attachment 1 Compliance Analysis
2. Attachment 2 Original Request (FA1507-01)

Cc:

Mr. Scott Thompson  
Deputy Minister, Ministry of Finance  
Frost Building South, 7th Floor  
7 Queen's Park Crescent  
Toronto, ON M7A1Y7