



# Impact on practice still to be determined

Engineering concerns, large and small, are adjusting to the new realities of the privacy culture. While the impact isn't expected to be overwhelming, practitioners would do well to add protection of personal information as one of the key points in today's better business practices.

By Michael Mastromatteo

**E**ngineering firms across Ontario appear to be at different stages in adjusting to the new realities of privacy legislation. Under the federal government's Personal Information Protection and Electronic Documents Act (PIPEDA), commercial organizations are required to implement policies to ensure confidentiality of personal information obtained in normal business operations. The federal law is effective in the absence of similar provincial legislation, or in cases in which organizations operate on an interprovincial basis. The province of Quebec has already adopted similar legislation covering the use of personal information in the private sector, and at least two other provinces have followed suit. Ontario is considering similar legislation.

Privacy legislation is based on a number of principles designed to protect people from the illicit use of their personal information and to ensure that information is obtained only with an individual's consent. A key component of the new federal law is that commercial organizations, including engineering firms—even sole practitioners—develop and publicize privacy policies. Privacy poli-

cies are supposed to clarify such issues as the length of time personal information is retained by an organization, a complaints adjudication process and a system to verify and correct existing information.

Organizations failing to show compliance with the legislation, or that prove careless in their treatment of personal information, could be subject to complaints before Canada's Privacy Commissioner, leading to legal penalties or fines.

Almost every engineering practitioner or firm is expected to be impacted by privacy legislation in some way. However, some of the larger firms operate on a company-to-company basis, rather than person-to-person and, as such, will not be significantly affected, except perhaps for their handling of their employee information.

## Some concerns

While the full impact of the new privacy legislation is yet to be determined, a couple of concerns for the engineering community have already arisen. Chief among these are potential restric-

tions on engineering practitioners' ability to search for personal information about prospective individual clients on public databases, without the consent of the individual.

Whatever the impact on business practices, some engineering firms have already moved to bring their organizations in line with what is being termed the "privacy culture." The Aecon Group in Toronto, for example, is moving forward with a company policy on the collection and use of personal information.

Aecon's newly developed policy, now posted on the company website, echoes the 10 privacy principles outlined in the federal legislation (see "Privacy protection is good business," p. 54).

Jennifer Longworth, manager of human resources for Aecon, is acting as privacy officer for the large construction and infrastructure development firm. "Due to the current changes in legislation, Aecon began reviewing and developing a strategy to tackle the new privacy legislation," she told *Engineering Dimensions*. "Although not mandatory for our current operations in Ontario, we do have divisions all around

information and do they really need it," Longworth said. "Another challenge was determining what the actual 'confidential' material is."

Smaller engineering firms have also responded to the stepped-up expectations regarding personal information. However, Leo McCuaig, P.Eng., principal of Zenix Engineering, an Ottawa-based multi-disciplinary engineering firm, said privacy legislation is not having a significant impact on his operations. McCuaig said some relatively simple administrative procedures appear to have addressed the basic requirements of privacy legislation. "Our office manager keeps the employee files under lock and she is the only one with access to them," he said. "This has generally been our policy since our inception, and we have reinforced the need to keep the files confidential since the privacy legislation came into force."

### Regulator involvement?

There is some concern that engineering firms failing to show compliance with privacy legislation in their business practices might invite conflict with the

ing with customers, clients and even their own employees.

Richard Steineke, an attorney with the Toronto law firm Steineke, Maciura, LeBlanc, has been advising PEO on the development of its own privacy policy. He says individual engineering practitioners and firms can avoid problems stemming from the treatment of personal information with a simple reminder: "Understand why you are collecting the personal information, explain that purpose to the person, and then make sure that the personal information is only used for that purpose."

The Privacy Commission of Canada also provides some general information about PIPEDA and its potential impact on the marketing and other activities of commercial organizations, such as engineering firms. "In an increasingly competitive marketplace, businesses rely on personal information to identify and stay in touch with their customers," the commission says. "They use it to seek out new customers who might be interested in their products. They want to find out what the market is looking for and what it will bear. And they want information about their

## Engineering firms failing to show compliance with privacy legislation in their business practices might invite conflict with the *Professional Engineers Act* and Regulation 941/90.

Canada and, in order to stay compliant in each of the provinces, we decided to set a policy in line with the federally regulated PIPEDA. This policy was developed with assistance from the privacy committee, the human resources department, the corporate affairs department and, finally, the senior management team."

Longworth said the overall process at Aecon included developing the privacy policy and procedures, preparing staff material, and providing education and training for employees and those who actually handle the confidential material.

"The main challenge for Aecon was determining who exactly has access to the

*Professional Engineers Act* and Regulation 941/90, namely the failure to take note of applicable statutes, codes, standards and bylaws (section 72(2)(d) of the regulation). PIPEDA, however, is not seen as a statute applicable directly to professional engineering practice—such as the *Building Code Act* or the *Occupational Health and Safety Act*. As such, lapses with respect to privacy issues might not immediately bring down PEO's wrath on a wayward practitioner or firm. Nonetheless, individual engineers are still advised to consider, at minimum, a common-sense approach to personal information protection when deal-

employees, so that they can administer benefits and ensure a safe and productive workplace. Obtaining and using that personal information in ways that don't offend the fundamental human right of privacy is the challenge for modern businesses."

Privacy officers also stress that respecting and protecting privacy is a key element of good customer relations, which makes for a competitive advantage.

Although it is not tailored to engineering concerns, practitioners might benefit from a review of some of the contents of the Privacy Commission website, which can be accessed at [www.privcom.gc.ca/information/guide\\_e.asp](http://www.privcom.gc.ca/information/guide_e.asp)