



Treasury Board of Canada
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du Canada



Guidelines for Ministers' Offices

Administrative Practices
July 2005

Administrative
practices

Canada

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Table of Contents

Introduction	1
Part 1 Conflict of Interest.....	2
1.1 Conflict of Interest.....	2
Ministers' Exempt staff	3
Ministerial Appointees.....	3
Post-employment Compliance Measures	3
Departmental Employees	4
Part 2 Security	5
2.1 Requirements	5
2.2 Personal security	5
Part 3 Human Resource Management.....	6
3.1 Employment Equity	6
3.2 Staffing	6
Exempt staff in a Minister's office and a Minister's of State office.....	6
Status of exempt staff after a change in Cabinet	7
Contracting for professional or temporary help services.....	9
Other staffing issues.....	9
3.3 Pay.....	10
Salary rates.....	10
Salary increases.....	11
Acting pay	12
Overtime.....	12
3.4 Employee benefits	12
Compulsory plans.....	13
Automatic plans (Government paid) for those exempt staff positions whose salary maxima are equivalent to the Public Service EX occupational group.....	13
Optional plans (member-paid)	14

3.5	Leave.....	14
	Vacation leave	14
	Cashing out of vacation leave	15
	Statutory leave	16
	Election leave	16
	Other leave	17
3.6	Departmental staff assigned to Ministers' and Ministers' of State offices	17
3.7	Termination	20
	Severance pay and transferring-in previous service	20
	Separation pay	21
	Amount payable.....	21
	Reimbursement	22
	Exempt staff entitlements when a Minister or a Minister of State ceases to be a Minister or a Minister of State	22
	Ministers' exempt staff priority entitlements.....	23
	Employment assistance: outplacement services.....	23
Part 4	Financial Management	25
4.1	Source of funds.....	25
4.2	Transferring funds	25
4.3	Accountability	26
4.4	Accounting for expenditures charged to Ministers' and Ministers' of State budgets	26
	Ministers' and Ministers' of State salary and Motor Car Allowance	26
	Exempt staff salary budget	27
	Operating budget	27
	Other costs related to exempt staff personnel	28
	Departmental staff salary budget.....	28
4.5	Financial Authorities	28
	Spending Authority.....	29
	Payment Authority	31
4.6	Internal audit.....	31

Part 5	Office Accommodation and Supplies	32
5.1	Office Accommodation	32
	Introduction	32
	Departmental Headquarters Offices.....	32
	Ministers' Regional Offices (MRO's)	32
5.2	Office Furniture and Furnishings.....	33
	Departmental Headquarters Offices.....	33
	Ministers' Regional Offices.....	33
5.3	Office Equipment and Supplies.....	33
5.4	Stationery and printed media	34
	Federal Identity Program	34
	Stationery	34
	News Releases and Kit Folders.....	34
5.5	Telephones.....	35
Part 6	Travel	36
6.1	Introduction.....	36
	Travel expenses.....	36
	Reimbursement for travel expenses	37
	Travel expenses – Ministerial staff.....	38
6.2	Executive vehicles for use by a Minister or a Minister of State	39
	Official use	39
	Personal use.....	40
	Selecting an executive vehicle	40
	Maintaining executive vehicles.....	41
6.3	Air travel.....	42
6.4	Rail travel.....	43
6.5	International travel (government business).....	43
6.6	International travel (private)	43
6.7	Ministers' and Ministers' of State spouses.....	43
6.8	Travel by Members of Parliament with or on behalf of a Minister.....	44
6.9	Transportation allowance for staff overtime.....	44

Part 7	Contracting.....	45
7.1	Introduction.....	45
	Treasury Board Contracting Policy.....	45
7.2	Employer-employee relationships.....	46
7.3	Fee guidelines.....	46
7.4	Former government officials.....	47
7.5	Temporary help services.....	47
7.6	Proactive Disclosure of Contracts over \$10,000.....	48
Part 8	Services and Hospitality.....	49
8.1	Parking.....	49
8.2	Relocation.....	49
8.3	Hospitality and gifts.....	50
	Hospitality – Ministers and Ministers of State.....	50
	Hospitality – Ministers’ and Ministers’ of State staff.....	51
	Gifts, hospitality, or other benefits received.....	51
	Gifts given.....	53
8.4	Memberships.....	53
8.5	Conferences.....	54
8.6	Legal services.....	54
	Indemnification and Legal Assistance.....	54
Part 9	Official Languages.....	55
9.1	Official Languages.....	55
9.2	Background.....	55
9.3	Service to the Public.....	56
9.4	Language of Work.....	56
9.5	Equitable participation.....	56
9.6	Support mechanisms.....	57

Part 10 Information Management.....	58
10.1 Information management	58
New information technologies	58
Leaving office.....	59
10.2 <i>Access to Information and Privacy Acts</i>	59
Background.....	59
Monitoring disclosure	61
Cabinet confidences	62
Appendix A – Exempt staff position structure	63
Appendix B – Current provisions – salaries for exempt staff.....	67
Appendix C – Budgets and staff complements for Ministers and Ministers of State.....	69
Appendix D – Department of National Defence guidelines for the use of government administrative aircraft	72
Appendix E – Information on the Ministers’ Staff Priority – The Public Service Commission of Canada	76
Appendix F – Conflict of interest and post-employment code for Public Office Holders – Designations of Ministerial Staff and Appointees	83
Appendix G – Letter from Minister of Finance to cabinet ministers, December 1963	85
Appendix H – Letter from the Secretary of the Treasury Board with respect to Access to Information requests of ministerial expense claims	86

Introduction

The Excluded Groups and Administrative Policies of the Treasury Board Secretariat publishes and co-ordinates the preparation of this document based entirely on input provided by policy centres in the Treasury Board Secretariat (TBS), the Department of National Defence (DND), The Department of Public Works and Government Services Canada (PWGSC) and the Privy Council Office (PCO). By its very nature, the document cannot be all inclusive and as such, source documents are cited where appropriate. Responsibility for interpreting the guidelines as they relate to various policies rests with the TBS policy centres or the departments identified above.

The Treasury Board provides Ministers and Ministers of State with a budget for exempt staff (personnel exempt from the normal appointing procedures under section 39 of the *Public Service Employment Act*), a budget for operating their offices, and a budget for departmental staff.

Ministers and Ministers of State must be able to differentiate between expenses for activities related to the conduct of the portfolio and other official government business, and expenses incurred as a member of Parliament and a member of a political party.

This document consolidates the various financial, personnel and administrative rules and regulations that govern expenses incurred by Ministers, Ministers of State and their exempt staff when they perform duties directly related to their responsibilities which are therefore justifiably chargeable against the appropriation of a particular ministry. Unless specifically exempted, Ministers and Ministers of State are subject to Treasury Board policies and regulations (refer to Part 4.1 of these Guidelines). The first source of help, information or guidance on these matters is the Deputy Minister.

The Treasury Board may authorize exceptions to the Guidelines in special circumstances. All such requests must first be discussed between the Minister and the President of the Treasury Board.

This document and Treasury Board policies are available electronically on the TBS web-site at: http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/mg-ldm/gfmo_e.asp and http://www.tbs-sct.gc.ca/common/policies-politiques_e.asp respectively.

Part 1 Conflict of Interest

1.1 Conflict of Interest

The highest standards of probity and integrity are expected of Ministers' and Ministers' of State staff. All persons on the political staff of a Minister or a Minister of State, whether they be exempt, or constituency or House of Commons, full-time or part-time, on salary or on contract, are subject to the Conflict of Interest and Post-employment Code for Public Office Holders.

The Ethics Commissioner administers the Code and applies compliance measures. The Office of the Ethics Commissioner will communicate with each individual as soon as notification of his or her appointment has been received from the office of a Minister or a Minister of State.

The requirements of the code generally cover the following:

- ▶ general principles and specific prohibitions;
- ▶ mandatory reporting requirements, involving both confidential and publicly available information; and
- ▶ post employment conditions.

There are limitations on the ability of Ministers and Ministers of State to act on behalf of their constituents where quasi-judicial tribunals and Crown corporations are concerned. In this respect, guidance can be obtained from the Office of the Ethics Commissioner as to the nature and extent of services Ministers and Ministers of State, as Members of Parliament, and their staff can offer to constituents in their dealings with these institutions.

In addition, the Ethics Commissioner is available to the Prime Minister to investigate allegations against Ministers, Ministers of State and senior officials involving conflict of interest or lobbying, and will inquire into complaints, or other matters related to Ministers or Ministers of State referred to his Office by any Member of Parliament.

The Office of the Ethics Commissioner can be reached for advice and guidance at (613) 995-0721 or by E-mail at oc-bce@parl.gc.ca. The Conflict of Interest Code for Public Office Holders can be found at the Office of the Ethics Commissioner web-site at <http://www.parl.gc.ca/oc-bce/site/pages/ethics-e.htm>.

1.1.1 Ministers' Exempt staff

The Minister or the Minister of State may designate exempt staff members as being subject to Part III – Post-Employment Measures of the Conflict of Interest Code for Public Office Holders, <http://www.parl.gc.ca/oec-bce/site/pages/ethics-e.htm>. Those who are so designated are bound by it. Chief of Staff for both the Ministers and Ministers of State, other senior positions, and any other position, working with sensitive policy files must be subject to the post-employment compliance measures. The Minister or the Minister of State may also designate other exempt staff members, in consideration of their specific responsibilities (see Appendix F).

The Minister or the Minister of State, or their designate, is responsible for communicating in a timely and expeditious manner to the Office of the Ethics Commissioner, the names and titles (designations) of all newly hired exempt staff members or exempt staff transfers in or out, as well as an indication if Part III of the Code (Post-Employment) applies to them. Persons to whom the Code applies must come into compliance with its requirements within 120 days.

1.1.2 Ministerial Appointees

Persons appointed by the authority of a Minister (such as members of some advisory panels) will be subject to Part 1 – the Principles of the Code if appointed on a part-time basis and the Minister concerned will be responsible to ensure adherence to the Principles of the Code. Persons appointed by a Minister on a full time basis who have been designated as a 'Public Office Holder' will be subject to the full requirements of the Code.

1.1.3 Post-employment Compliance Measures

Exempt staff members who are designated by their Minister or Minister of State as being subject to Part III - Post-Employment Compliance Measures of the Conflict of Interest and Post-Employment Code for Public Office Holders are required to observe a one-year limitation period after leaving public office. During this time, they are prevented from appointment to a board of directors or accepting employment with any organisation outside the Federal government with which they have had direct and significant official dealings during the period of one-year immediately prior to the termination of their tenure as exempt staff members. Furthermore, under the Code, such staff members cannot make representations for or on behalf of any other person or entity, to any department with which they had direct and significant official dealings during the period of one year immediately prior to the termination of their service in public office. Information about certain prohibited activities after leaving office is also provided, in Part III of the Code.

1.1.4 Departmental Employees

Departmental staff assigned to the office of a Minister or a Minister of State must comply with the requirements of the Values and Ethics Code for the Public Service

http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/TB_851/vec-cve_e.asp. On assignment to such an office, the employee must review his or her circumstances in light of the newly assigned duties and, if necessary, complete a confidential report and submit it to the Deputy Minister or his or her representative.

Part 2 Security

2.1 Requirements

All individuals who work in or for Ministers' and Ministers' of State offices, including exempt staff, other employees, contractors, students and persons on loan, assignment or secondment regardless of their work location, require a Level 2 (Secret) security clearance prior to appointment. They must also comply with other requirements for the safeguarding of government information and other assets. Clearances and security briefings are arranged by the Deputy Minister and the Departmental Security Officer (DSO). The Privy Council Office briefs Ministers, Ministers of State and Parliamentary Secretaries on applicable security requirements.

All individuals who work in or for Ministers' and Ministers' of State offices should receive a security briefing from the Departmental Security Officer.

A single senior contact point should be designated within Ministers' or Ministers' of State offices to coordinate security related matters.

Advice on security clearances and other security requirements under the Government Security Policy may be obtained from the Departmental Security Officer.

It should be noted that contractors required to obtain a security clearance in order to fulfill the contractual obligations of the contract is not an appointment nor does the requirement to comply with the government Security Policy constitute an employer-employee relationship.

2.2 Personal security

The Royal Canadian Mounted Police (RCMP) provide material to Ministers and Ministers of State on security precautions they can take to ensure their safety. The RCMP also provides them with a 24-hour, 7-day emergency contact number. In case of specific threat, the RCMP can offer additional protection (e.g. could include driver, vehicle and bodyguard).

The Departmental Security Officer should be informed of potential threats and future travel in order to ensure liaison with the RCMP and provision of the necessary level of protection.

The Government Security Policy requires protection measures for employees under threat of violence. The Departmental Security Officer can provide advice in this regard.

Part 3 Human Resource Management

3.1 Employment Equity

Ministers and Ministers of State are not bound by Employment Equity legislation in the appointment of exempt staff. Nevertheless, the government has expressed its commitment to the principles, and to follow the spirit of employment equity. Even though the number of exempt staff is small, Ministers and Ministers of State may wish to ensure that there is a reasonable mix of men and women on their exempt staff, including individuals from designated groups (i.e., Aboriginal peoples, persons with disabilities and visible persons in a minority group).

3.2 Staffing

Members of a Minister's or a Minister's of State exempt staff are appointed by the Minister or the Minister of State pursuant to section 39 of the *Public Service Employment Act*, and are "exempt" from the appointing procedures of the Public Service.

3.2.1 Exempt staff in a Minister's office and a Minister's of State office

The *Public Service Employment Act* (PSEA) identifies the following job titles for a Minister's or Minister's of State exempt staff: Executive Assistant, Special Assistant, and Private Secretary, however, other job titles exist for exempt staff. The Exempt Staff Position Structure is available in Appendix A. Ministers and Ministers of State have the flexibility of configuring the complement of exempt staff in their own offices.

A Minister may use the following positions and salary ranges:

- ▶ Chief of Staff (up to the maximum rate of pay for the EX-4 level);
- ▶ Senior Policy Advisor (up to the maximum rate of pay for the EX-2 level);
- ▶ Director of Communications (up to the maximum rate of pay for the EX-2 level);
- ▶ Director of Parliamentary Affairs (up to the maximum rate of pay for the EX-2 level);
- ▶ Policy Advisor (up to the maximum rate of pay for the AS-8 level);
- ▶ Senior Special Assistant (up to the maximum rate of pay for the AS-7 level);
- ▶ Special Assistant for Communications, Parliamentary Affairs, and Regional Offices (up to the maximum rate of pay for the AS-5 level).

A Minister of State may use the following positions and salary ranges:

- ▶ Chief of Staff (up to the maximum rate of pay for the EX-2 level);
- ▶ Senior Special Assistant (up to the maximum rate of pay for the AS-7 level);

- ▶ Special Assistant (up to the maximum rate of pay for the AS-5 level); and
- ▶ Support Staff (up to the maximum rate of pay for the CR-5 level).

A Minister or a Minister of State must respect the following conditions:

- ▶ There is a maximum of one Chief of Staff for any Minister's or Minister's of State Office;
- ▶ they must observe rules regarding position titles and respective salary range maxima; and
- ▶ while the number of exempt staff may vary, depending upon salaries paid, they must never exceed the budget for exempt staff salaries without prior Treasury Board approval.

3.2.1.1 Exempt staff in Ministers' Regional Offices (MRO's)

The following exempt staff are specific to Ministers' Regional Offices (MRO's) and are additional to the exempt staff complement of only Regional Ministers. Regional exempt staff, unlike other exempt staff, which have the Offices of Ministers and Ministers of State as their work location, have the MRO's as their work location.

- ▶ Regional Affairs Director (up to the maximum rate of pay for the EX-1 level);
- ▶ Regional Communications Advisor (up to the maximum rate of pay for the IS-5 level);
- ▶ Special Assistant Regional Affairs (up to the maximum rate of pay for the AS-5).

The Regional Minister has the flexibility to configure their own regional exempt staff complement using existing approved salary ranges for exempt staff, however, they must observe rules regarding position titles and respective salary range maxima.

3.2.1.2 Exempt staff in the Offices of Ministers with Parliamentary Secretaries.

Ministers who have Parliamentary Secretaries within their portfolio are authorized to hire one exempt staff dedicated to support the Parliamentary Secretary. The Parliamentary Secretary's Assistant can be paid up to the maximum rate of pay of the Public Service AS-5 level.

3.2.2 Status of exempt staff after a change in Cabinet

A member of a Minister's or Minister's of State exempt staff ceases to be so employed 30 calendar days after the Minister or the Minister of State ceases to be a Minister or a Minister of State of a given portfolio unless, within that 30-day period:

- ▶ the Minister or the Minister of State appoints that person to his or her new portfolio;
- ▶ the person is appointed to the exempt staff of another Minister or Minister of State; or
- ▶ if entitled, the person is appointed by the Public Service Commission to a position in the Public Service.

3.2.2.1 Exempt staff who remain employed by the same Minister or Minister of State

- ▶ When exempt staff remain in the employ of the same Minister or Minister of State, either in the original or a new portfolio, they do not receive severance pay, separation pay, or a salary extension for 30 calendar days because their employment does not terminate.
- ▶ The Minister or the Minister of State may grant a salary increase for a promotion to a higher level of responsibility as defined in the Exempt Staff Position Structure (see Appendix A). Otherwise, the fact that there has been a change in Cabinet does not provide sufficient justification for salary increases for exempt staff. Therefore there should be no salary increases.
- ▶ Cashing out accumulated annual leave credits is at the discretion of the Minister or the Minister of State and is to be done according to the applicable terms and conditions of employment.

3.2.2.2 Exempt staff appointed by another Minister or Minister of State

If another Minister or Minister of State employs exempt staff within the 30 calendar days:

- ▶ they will continue to receive the same rate of pay if appointed to the same exempt staff position;
- ▶ they may receive a salary increase only on promotion to a more senior exempt staff position (ref. Exempt Staff Position Structure, Appendix A);
- ▶ they do not receive severance, separation pay or a salary extension for 30 calendar days because their employment does not terminate; and
- ▶ cashing out accumulated annual leave credits is at the discretion of the Minister or the Minister of State. (Reference section 3.5.1).

3.2.2.3 If exempt staff do not find employment with any Minister or Minister of State within the 30 calendar days: (see also section 3.7)

- ▶ they are entitled to receive severance pay calculated at the rate of two weeks' pay for each year of service as exempt staff, pro-rated with respect to part of a year's service. There is no minimum period of employment to receive severance.
- ▶ they may be entitled to separation pay which is a discretionary payment made only by the Minister or the Minister of State. Refer to section 3.7.2 for further details.

3.2.2.4 Exempt staff hired after the 30 calendar day period

Ministers and Ministers of State are encouraged to make decisions as soon as possible within the 30 calendar days after their new appointment or their termination of office to retain or to release exempt staff members. If exempt staff are hired only after the 30 calendar days:

- ▶ they retain the full amount of any severance pay received;

- ▶ they must reimburse a proportionate amount of any separation pay if re-hired or engaged under contract, either directly or hired by or engaged under contract with a government contractor, during the period the payment covers (e.g., if paid four months separation pay and hired two months after her or his Minister or Minister of State left or changed portfolio, the exempt staff member would have to repay two months separation pay).

3.2.3 Contracting for professional or temporary help services

When contracting for professional or temporary help services, the additional requirements and obligations found at part 7 of these Guidelines must also be met. Neither professional services contracts nor contracts for temporary help are employment contracts. No employer-employee relationship can be created when entering into such a contract (see section 7.2 for more information).

3.2.4 Other staffing issues

A Minister or a Minister of State has discretionary authority to use the services of any member of the exempt staff on public business outside the National Capital Region. The salary or fee for that person is chargeable to the Minister's or Minister's of State exempt staff budget.

When there is more than one Minister or Minister of State within the portfolio, the services of the exempt staff in the administrative support categories should be pooled as much as possible.

Exempt staff members' names and the positions they hold are not considered as confidential and could be released under any Access to Information request.

For information on Conflict of Interest issues, please see section 1.1.1 of this document.

For information on Security issues for employees, please see section 2.2 of this document.

3.3 Pay

3.3.1 Salary rates

These are the maximum permissible salaries for the following positions. These maximums are effective as shown:

	Maximum Permissible Salary (\$) Effective April 1, 2005	Maximum Permissible Salary (\$) Effective June 21, 2005
Position (Minister's office)		
Chief of Staff (EX-4)	up to 155,600	no change
Senior Policy Advisor (EX-2)	up to 121,000	no change
Director of Communication (EX-2)	up to 121,000	no change
Director of Parliamentary Affairs (EX-2)	up to 121,000	no change
Policy Advisor (AS-8)	up to 87,370	up to 93,767
Senior Special Assistant (AS-7)	up to 82,196	up to 88,215
Special Assistant, Communications (AS-5)	up to 66,287	up to 71,140
Special Assistant, Parliamentary Affairs (AS-5)	up to 66,287	up to 71,140
Special Assistant, Regional Desk (AS-5)	up to 66,287	up to 71,140
Position (Minister's of State office)		
Chief of Staff (EX-2)	up to 121,000	no change
Senior Special Assistant (AS-7)	up to 82,196	up to 88,215
Special Assistant (AS-5)	up to 66,287	up to 71,140
Support Staff (CR-5)	up to 43,132	up to 46,290
Position (Minister's Regional Office)		
Regional Affairs Director (EX-1)	up to 108,000	no change
Regional Communications Advisor (IS-5)	up to 73,675	up to 79,069
Special Assistant, Regional Affairs (AS-5)	up to 66,287	up to 71,140
Position (Ministers with Parliamentary Secretaries)		
Parliamentary Secretary's Assistant (AS-5)	up to 66,287	up to 71,140

NOTE: All salaries set by a Minister or a Minister of State for their exempt staff will be deemed to include compensation for overtime.

Ministers and Ministers of State may pay exempt staff any salary up to the permitted maximum, as authorized by the Treasury Board, and may authorize increases up to the maximum rate. However, an exempt staff member should not be paid the maximum salary unless it can be fully justified by his or her experience and qualifications.

In exceptional circumstances, a Minister or a Minister of State may, with the prior approval of the Treasury Board, pay an exempt staff member a salary above the permitted maximum. A Minister or a Minister of State and the President of the Treasury Board should first discuss all requests for salaries above the permitted maximum.

The Treasury Board may authorize other exceptions to these guidelines in special circumstances. A Minister or a Minister of State and the President of the Treasury Board should discuss all such requests first.

3.3.2 Salary increases

Only a Minister or a Minister of State has the discretionary authority to award or withhold salary increases.

Provided funds are available in the exempt staff budget, a Minister or a Minister of State may authorize salary increases as follows:

- ▶ for those exempt staff members whose salaries are below the permissible maximum, a Minister or a Minister of State may increase their salaries as required, usually not more often than once a year until the maximum is reached;
- ▶ for those exempt staff members whose salaries are at the permissible maximum, a Minister or a Minister of State may not increase their salaries without the Treasury Board's approval;
- ▶ for those exempt staff members whose salaries have been approved by the Treasury Board above the permissible maximum, a Minister or a Minister of State may increase their salaries by no more than the most recent percentage increase authorized for the corresponding Public Service group and level. A Minister or a Minister of State may not authorize such increases before the anniversary date of the exempt staff member's appointment or last increase, whichever is later, unless Treasury Board approval is obtained.

3.3.3 Acting pay

A Minister or a Minister of State may authorize acting pay when an exempt staff member temporarily performs the duties of a higher position. To qualify for acting pay, exempt staff members must continuously perform the temporary duties for a minimum of 10 consecutive working days.

3.3.4 Overtime

The scheduled work week is usually 37 1/2 hours from Monday to Friday inclusive, and the scheduled work day is usually 7 1/2 hours.

For information on transportation allowances for exempt staff overtime, please see section 6.8 of this document.

3.3.4.1 Exempt Staff

Exempt staff are not eligible for overtime pay. Instead, when exempt staff members must work overtime hours, or when they work or travel on a day of rest or on a holiday, they may be granted management leave (leave with pay). This leave is granted as a Minister or a Minister of State considers appropriate with the appropriate documentation. Management leave should be granted as soon as possible after the period that justifies it, and should not exceed the overtime hours worked or spent in travel. In no circumstances shall management leave be granted after an election has been called or as compensation for election activities.

3.3.4.3 Meals

An exempt staff member who works overtime extending beyond the normal meal period, or works at least three hours on a day of rest or on a designated holiday, may be reimbursed based on receipts, for one or more meals (depending upon the number of meal periods occurring in the overtime period) in accordance with the amounts prescribed in the Treasury Board Travel Directive, or with the meal rate negotiated for equivalent groups and levels under collective bargaining of the Program and Administration Services Group (PA).

Rates for meals are updated regularly, consult Departmental Financial Services for current rates.

3.4 Employee benefits

This section summarises the major non-salary compensation provisions in the areas of pensions and insurance. More comprehensive information on these terms and conditions of employment, and help in administering them, is available from Departmental Human Resources offices.

For the purposes of entitlements under the Public Service group insurance plans, Chief of Staff, Senior Policy Advisor, Director of Communications, Director of Parliamentary Affairs, and

Regional Affairs Director are in accordance with the Executive (EX) Group, and Policy Advisor, Senior Special Assistant, Special Assistants (Communications, Parliamentary Affairs, Regional Desk, Regional affairs, to Parliamentary Secretary), Regional Communications Advisor, and Support Staff are in accordance with the Program and Administration Services (PA) Group excluded from collective bargaining.

A Minister's or a Minister's of State exempt staff participate in the following plans:

3.4.1 Compulsory plans

3.4.1.1 For all Exempt Staff

- ▶ Employment Insurance plan;
- ▶ Provincial health insurance plans; and
- ▶ Canada/Quebec pensions plans.

3.4.1.2 Compulsory plans, subject to the normal eligibility requirements of each plan

- ▶ Public Service Superannuation Plan;
- ▶ Supplementary death benefit (Part II of the *Public Service Superannuation Act*);
- ▶ Long-term disability (LTD) insurance (part of the Public Service Management Insurance Plan); and
- ▶ Public Service Dental Care Plan.

3.4.2 Automatic plans (Government paid) for those exempt staff positions whose salary maxima are equivalent to the Public Service EX occupational group.

- ▶ The following components of the Public Service Management Insurance Plan:
 - basic life insurance equal to twice the adjusted annual salary;
 - accidental death and dismemberment insurance of \$250,000; and
 - dependants' insurance.
- ▶ the following components of the Public Service Health Care Plan:
 - single or family extended health care coverage; and
 - hospital benefit, level III.

3.4.3 Optional plans (member-paid)

3.4.3.1 For those exempt staff positions whose salary maxima are equivalent to the Public Service PA occupational group:

- ▶ Public Service Health Care Plan (Extended Health Provision plus Hospital Level I Government paid; Optional Hospital Levels II and III member paid).
- ▶ the following components of the Public Service Management Insurance Plan:
 - basic and supplementary life insurance, both equal to the adjusted annual salary;
 - accidental death and dismemberment insurance up to \$250,000; and
 - dependants' insurance.

3.4.3.2 For those exempt staff positions whose salary maxima are equivalent to the Public Service EX occupational group.

The following component of the Public Service Management Insurance Plan: an additional supplementary life insurance equal to the adjusted annual salary.

3.5 Leave

Costs for leave with pay are charged to the Minister's or Minister's of State exempt staff budget. Leave for those exempt staff positions whose salary maxima are equivalent to the Public Service EX occupational group follows the terms and conditions of the Executive Group, which can be found at internet address

http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/tbm_114/termcondemploy_e.asp, as amended from time to time. For all other exempt staff members whose salary maxima are equivalent to the Public Service PA occupational group, leave follows the collective agreement for the Program and Administrative Services (PA) Group, which can be found at internet address:

http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/coll_agre/table1_e.asp as amended from time to time.

3.5.1 Vacation leave

Vacation leave entitlements

Determination of leave entitlements is in accordance with section 3.5 above with the exception that service for the accumulation of vacation leave under this clause will include employment with any government department as defined in the *Financial Administration Act*:

(<http://laws.justice.gc.ca/en/F-11/index.html>) if severance has not been issued upon termination of such employment. Vacation entitlements are as follows:

Those exempt staff positions whose salary maxima are equivalent to the Public Service EX occupational group.	Those exempt staff positions whose salary maxima are equivalent to the Public Service PA occupational group.
4 weeks per year on appointment	3 weeks per year on appointment
5 weeks per year after completing	4 weeks per year after 8 years
10 years of service as an Executive Assistant and/or as a member of the Executive group; or	4 weeks and 2 days after 16 years
15 years' service, of which at least 5 years are as an Executive Assistant or in the Executive group; or	4 weeks and 3 days per year after 17 years
20 years' service	5 weeks per year after 18 years
6 weeks per year after completion of 28 years of service	5 weeks and 2 days per year after 27 years
	6 weeks after 28 years

A Minister or a Minister of State may authorize an advance payment of the estimated net salary for vacations of two or more complete weeks if this is requested in writing at least six weeks before the last pay day before the vacation begins.

When exempt staff are recalled from vacation leave, they shall be reimbursed for reasonable expenses, as the Treasury Board normally defines them, incurred in travelling to the place of duty and back to the place where they were vacationing, if they resume the vacation immediately. They must submit expense accounts with receipts. When the Minister or the Minister of State cancels or alters vacation leave that was previously approved, the employee shall be reimbursed for any reasonable monetary penalty incurred in cancelling reservations.

If a person on the Minister's or Minister's of State exempt staff ceases to be employed or dies, the person or the estate shall be paid for any earned but unused vacation leave, except management leave, according to the following formula:

$$(\text{days of unused vacation}) \times (\text{daily pay rate on the day service ends})$$

In the event of the termination of employment for reasons other than death, a change in government, or when the Minister or the Minister of State ceases to be a Minister or a Minister of State, unearned vacation leave taken by the employee will be recovered from any monies owed upon termination.

3.5.2 Cashing out of vacation leave

Exempt staff may cash out any or all of their vacation leave at any time during the year with the approval of their Minister or Minister of State.

3.5.3 Statutory leave

The following are designated paid holidays:

- ▶ New Year's Day;
- ▶ Good Friday;
- ▶ Easter Monday;
- ▶ the day fixed by proclamation by the Governor in Council for celebration of the Sovereign's birthday;
- ▶ Canada Day;
- ▶ Labour Day;
- ▶ the day fixed by proclamation of the Governor in Council as a general day of Thanksgiving;
- ▶ Remembrance Day;
- ▶ Christmas Day;
- ▶ Boxing Day; and
- ▶ one additional day that is recognised as a provincial or civic holiday in the area where the person on a Minister's or Minister's of State exempt staff is employed, or the first Monday in August in any area where no such day is recognised as a provincial or civic holiday.

Ministers' or Ministers' of State exempt staff are not entitled to designated paid holidays if they are on leave without pay on the full working day immediately before and the full working day immediately after a designated paid holiday.

3.5.4 Election leave

A member of a Minister's or Minister's of State exempt staff is not required to resign or request leave without pay in order to seek nomination as a candidate for a federal, provincial or territorial election, including by-elections, provided that the nomination takes place before the writs are issued.

Once the writs¹ are issued, however, any exempt staff member who is already nominated, or who seeks to be nominated, as a candidate for an election must resign or be granted leave without pay, at the Minister's or Minister's of State discretion. This resignation or leave without pay should take

1. In the case of a federal election, writs are issued at least 36 days before election day.

effect, at the latest, the day before the exempt staff member accepts in writing the official nomination² as an election candidate.

After the writs are issued or once Parliament or any provincial legislature or territorial council is dissolved, the exempt staff member should avoid declaring or having himself or herself declared by others to be a candidate before he or she has resigned or started the leave without pay.

Should a member of the Minister's or Minister's of State exempt staff decide to become actively involved on a full time basis in a federal, provincial or territorial election or by-election, the member is required to take leave without pay or resign their position. If a member becomes engaged in campaign activities on a part-time basis, their involvement must be on their own time and not during regular office hours. No vacation leave or any other leave with pay will be permitted for election purposes.

Any period of leave without pay will not count as service toward qualifying for priority staffing under the *Public Service Employment Act* (PSEA). If the member of the exempt staff did not qualify for priority staffing prior to going on leave without pay, any period of leave without pay will have to be made up later to meet the PSEA's qualifying criteria.

3.5.5 Other leave

3.5.5.1 Other circumstances

A Minister or a Minister of State may grant leave of absence with pay, for a period no longer than two weeks, when the place of work has been rendered uninhabitable and the employee cannot perform his or her duties until an alternative place has been found, or when the employee is required or urgently needed to help with a community emergency.

3.6 Departmental staff assigned to Ministers' and Ministers' of State offices

The Treasury Board authorizes departmental staff complements and salaries' budget to be provided from existing departmental resources. In keeping with the Public Service's non-partisan tradition, departmental staff assigned to a Minister's or Minister's of State office may provide only non-political departmental advice that fall within the scope of the Minister's or Minister's of State departmental/portfolio responsibilities. Also, public relations functions are not to be performed by assigned departmental staff.

2. Official nomination: is the filing of a nomination paper and a deposit by a candidate with the returning officer at any time between the date of the proclamation and the hour fixed for the close of nomination which is 28 days before the election.

The duties of the Departmental Assistant assigned to Ministers' offices would normally include liaising between the Minister's office and the Department as well as managing the sharing of information and documents. The duties would also include providing, in collaboration with the Deputy Minister and Senior Departmental Officials, advice on departmental issues to the Minister and his exempt staff.

A Minister is permitted up to eight (8) departmental staff, including the Departmental Assistant. The Departmental Assistant could be classified at a level equivalent to EX-2. This would be commensurate with the breadth of knowledge and expertise of the Departmental Assistant. The seven remaining departmental staff are considered to be support staff positions. These support staff may only be classified up to the AS-4 level. A Minister of State is permitted up to three (3) departmental staff, including the Departmental Assistant. A Minister or a Minister of State is permitted a maximum of one Departmental Assistant. Budget maxima may not be exceeded without prior Treasury Board approval.

Maximum levels for departmental staff for Ministers' and Ministers' of State offices are indicated in the following tables:

Departmental Staff – Ministers' Offices		Effective April 1, 2004	Effective April 1, 2005
Position Titles	Public Service Level (up to)*	Salary Maxima (\$)	Salary Maxima (\$)
Departmental Assistant	EX-2	117,400	121,000
		Effective June 21, 2004	Effective June 21, 2005
Minister's Private Secretary	AS-4	58,162	59,558
Minister's Driver	CR-5	45,205	46,290
Support Staff – Chief of Staff	AS-4	58,162	59,558
Support Staff	AS-3	53,091	54,365

* Public Service classified levels and salary increments within ranges will apply.

Departmental Staff – Ministers' of State Offices		Effective June 21, 2004	Effective June 21, 2005
Position Titles	Public Service Level (up to)*	Salary Maxima (\$)	Salary Maxima (\$)
Departmental Assistant	PM-6	86,147	88,215
Minister's of State Private Secretary	AS-4	58,162	59,558
Minister's of State Driver	CR-5	45,205	46,290

* Public Service classified levels and salary increments within ranges will apply.

Normally a Minister or a Minister of State will look to departmental staff for support for non-political activities within the scope of her or his departmental/portfolio responsibilities. Departmental staff assigned to a Minister's or Minister's of State office are public servants in the employ of their department. These persons cannot transfer with a Minister or a Minister of State when he or she changes portfolio. However, persons whose main duties have been to provide a personal service to a Minister or a Minister of State (e.g., personal drivers) are an exception since the personal service they provide is more important than their knowledge of departmental organisations or responsibilities. For this reason, two departments may make arrangement to transfer such persons provided this does not duplicate roles.

The Treasury Board will consider any other requests for exceptions to this policy. In developing proposals for exceptions, Ministers or Ministers of State should give due consideration to the potential implications for departmental employees who may be displaced by other public servants who may move from the previous portfolio.

Departmental staff may be physically located near the Minister's or Minister's of State office, and normally receive direction and supervision from the Minister, Minister of State or exempt staff members in the conduct of the business of the Minister's or Minister's of State office. However, they are at all times an integral part of the human resources of the department and, as such, are ultimately responsible to departmental authorities.

Departmental staff in Ministers' or Ministers' of State offices should not provide support services that are readily available in the department. Ministers or Ministers of State should look to the Deputy Minister for professional advice and support on both policy and operations across the full range of their responsibilities.

3.7 Termination

In all cases (i.e. resignation, death, dismissal, lay-off and retirement), discretionary separation payments are in addition to severance pay entitlement.

The Minister or the Minister of State, or their designate, is responsible for communicating in a timely and expeditious manner to the Office of the Ethics Commissioner, the names and titles (designations) of staff members whose employment has terminated or who have transferred out. The Office of the Ethics Commissioner will communicate with exempt staff members subject to Part III – Post- Employment Measures of the Conflict of Interest Code for Public Office Holders, <http://www.parl.gc.ca/oec-bce/site/pages/ethics-e.htm> regarding their post-employment obligations under the Code.

3.7.1 Severance pay and transferring-in previous service

Employees have a right to severance pay when they end their services voluntarily, are dismissed, die, or are laid off owing to lack of work or discontinuance of a function. Severance pay stays the same, whatever the circumstances of termination, that is, the amounts will be the same for resignation, death, dismissal, lay-off and retirement.

When a person on a Minister's or Minister's of State exempt staff ceases to be employed, severance pay is calculated at the rate of two weeks' pay (based on salary at termination) for each year of service. "Service" for this purpose, refers to service as an exempt staff member only. Calculations are pro-rated in respect of part of a year's service. There is no ceiling on the maximum number of weeks to be paid.

Severance payments are to be funded centrally, through Treasury Board Vote 5, as required.

For severance purposes, in certain cases Ministers and Ministers of State may recognise (or "transfer-in") an exempt staff member's previous service with a Member of Parliament staff or in the Public Service, as described in the *Public Service Superannuation Act* (PSSA). The exempt staff member must have gone directly from this service to the Minister's or Minister's of State office (in other words, there must not have been a break in service of more than three months). Furthermore, the exempt staff member must not have received severance payment from the House of Commons or from the previous Public Service employer. If the exempt staff member wants to transfer in previous service, he or she must obtain approval in writing from the Minister or the Minister of State at the time of hiring. The exempt staff member then sends a copy of this approval to the department's pay office and another copy to the House of Commons or to the previous employer. Upon termination of employment, an exempt staff member's severance pay for service as a Member of Parliament's (MP) staff member or in the Public Service will be one week's pay per completed year of service (based on the salary at termination of employment as an exempt staff

member) as long as the exempt staff member, with the combined service of the previous employer and service with the Minister or the Minister of State, has fulfilled the requirements of the previous employer to receive severance pay.

Note:

For those exempt staff members in their 30-day period, starting November 4, 1993, and who transferred into a Minister's office from an MP's office or the Public Service (as defined in the PSSA) immediately prior to April 1, 1987 (i.e., without a break in service of more than three months) and who did not receive severance pay for their service from the House of Commons or their previous Public Service employer, departments are advised that for severance purposes, this previous service as a member of an MP's staff or in the Public Service (as defined in the PSSA) is deemed to have been transferred in with the employee. Severance for this previous service will be calculated at one week's pay per completed year of service as an MP's staff member, at the final salary at termination of employment as an exempt staff. The regular severance pay provisions for their service as exempt staff members will also apply.

3.7.2 Separation pay

Separation pay may be paid at the discretion of the Minister or the Minister of State when the employee's services are ended. This pay is intended to compensate for possible loss of earnings resulting from an often unpredictable and, at times, abrupt termination of employment.

A Minister or a Minister of State may authorize separation pay when

- ▶ the Minister or the Minister of State dismisses a person on the exempt staff without notice;
- ▶ the Minister or the Minister of State ceases to be a Minister or a Minister of State;
- ▶ the Minister or the Minister of State changes portfolios or responsibilities and does not retain the employee's services; or
- ▶ a person on the exempt staff resigns, retires, is laid off or dies.

3.7.3 Amount payable

To compensate for possible loss of earnings, Ministers or Ministers of State may, at their discretion, authorize a maximum of up to six months' separation pay for those exempt staff members subject to Part III of the Conflict of Interest and, Post-Employment Code for Public Office Holders (see section 1.1.1). A maximum of up to four months' separation pay applies in all other cases.

While a Minister or a Minister of State may authorize separation pay up to the maximums set out above, separation pay of one month per year of service is considered reasonable.

3.7.4 Reimbursement

Separation pay is not paid when the member of the exempt staff has been granted leave without pay from the Public Service to work in the Minister's or Minister's of State office. In this case, the person remains an employee in the department that granted the leave without pay, and any subsequent termination benefit would be the responsibility of that department.

Separation payments are to be funded through departmental operating budgets and not charged to the Minister's or Minister's of State exempt staff budget or operating budget.

If a person who has received separation pay works in or for another Minister's or Minister's of State office or any federal institution during the period covered by his or her separation pay, whether compensated directly as employee or contractor, or indirectly, as an employee or sub-contractor of a contractor, the separation pay is to be refunded proportionately. This provision averts a duplication of payments out of government funds (i.e. the Consolidated Revenue Fund). Refer to government Estimates and appropriations documents to determine organizations funded through the Consolidated Revenue Fund at <http://www.tbs-sct.gc.ca/est-pre/estime.asp>.

3.7.5 Exempt staff entitlements when a Minister or a Minister of State ceases to be a Minister or a Minister of State

When a Minister or a Minister of State ceases to be a Minister or a Minister of State, or changes portfolio and does not take a member of the exempt staff to the new portfolio, affected employees continue to draw salary for 30 calendar days, in accordance with paragraph 39(2) of the *Public Service Employment Act* (PSEA). Where a Minister or a Minister of State authorizes separation pay, the payment begins at the end of this 30-day period. When Ministers and Ministers of State cease to hold office due to a cabinet shuffle or a general election, members of their exempt staff who are not rehired by a Minister or by a Minister of State or in the Public Service, are to be deemed to have been laid off at the end of the 30-day period for the purposes of the Public Service Health Care Plan and the Public Service Dental Plan.

A member of the exempt staff shall be paid according to the following formula for vacation leave that is earned but unused:

$$(\text{days of unused vacation}) \times (\text{daily pay rate on the day service ends})$$

Management leave may not be counted as earned vacation leave.

3.7.6 Ministers' exempt staff priority entitlements

The Ministers' exempt staff priority entitlement is provided for in the *Public Service Employment Act* (PSEA), section 39. The entitlement lasts for one-year from the date on which the priority person ceases to be employed in the Minister's office, which is either:

- ▶ 30 days after the Minister ceases to hold a portfolio; or
- ▶ the day on which the priority person ceases to be employed in the Minister's office;
- ▶ whichever comes first.

The priority entitlement applies to the Minister's exempt staff, hired to conduct activities related to the Minister's portfolio. The priority applies to someone who:

- ▶ Was an employee immediately before becoming employed in the office of the Minister (PSEA (39)(3)(a)); or
- ▶ While employed in the office of a Minister, qualified for appointment to the Public Service under this Act (open competition process) (PSEA (39)(3)(b)); or
- ▶ Was employed for at least three consecutive years in the office of a Minister or Ministers, in certain capacities successively (PSEA (39)(4)). Please refer to Appendix E for details.

The Ministers' exempt staff priority entitlement also applies to exempt staff employed in the office of:

- ▶ Leader of the Opposition in the House of Commons;
- ▶ Leader of the Government in the Senate;
- ▶ Leader of the Opposition in the Senate; and
- ▶ Ministers of State.

For additional information see Appendix E of this document. Please note that information provided in this Appendix is taken directly from the Public Service Commission's Guide to Ministers' Exempt Staff Priority, which is revised, as needed, independently from this document. An electronic version of the guide can be obtained at http://www.psc-cfp.gc.ca/staf_dot/priority-priorite/staff_priority_guide_e.htm. Please check the revised date on both documents to ensure that you have the most recent version of the guide.

3.7.7 Employment assistance: outplacement services

A Minister or a Minister of State may authorize up to \$5,000 to cover fees for professional outplacement services for a member of his or her exempt staff whose employment has been ended. An exempt staff member whose employment has been terminated should register with an outplacement firm within 30 days of the termination date, or in the 30 days after a Minister or a

Minister of State ceases to be a Minister or a Minister of State. This should be done within these time frames, even if services may be rendered at a later date. However, in all cases, services must be rendered within one-year of the termination date.

Outplacement services usually provide such information as: how to prepare a résumé, how to prepare for an interview, and how to present yourself at an interview. Costs for training or skill improvement, such as computer literacy or language courses, are not included.

Typically, the outplacement firm enters into a signed agreement with the member of the exempt staff that stipulates what services will be rendered. Invoices are to be sent to the Departmental Financial Services Unit. The cost of outplacement services is charged to the Minister's or Minister's of State operating budget.

Part 4 Financial Management

4.1 Source of funds

Ministerial budgets are funds that are available for portfolio and other official government business. These budgets are in addition to and separate from entitlements that a Minister and Minister of State have as members of the House of Commons. This document deals only with the budgets of Ministers and Ministers of State.

The entitlements related to being a member of the House of Commons are explained in detail in the Member's Manual of Allowances and Services published by the House of Commons and questions related to these entitlements should be referred to the Office of the Comptroller, House of Commons.

A Minister's or a Minister's of State budget is an integral part of a department's budget and is subject to the same provision of the *Financial Administration Act* (FAA) that apply to all departmental funds. The *Financial Administration Act* is intended to assure parliamentary control over public money by prescribing a financial control framework over all financial transactions. Many of the financial management provisions in the FAA are put in force through Treasury Board approved policies. Therefore, unless specifically exempted, Ministers' and Ministers' of State budgets are also subject to Treasury Board policies and regulations.

Ministers' and Ministers' of State budgets are subdivided into four parts and must be controlled separately. These budgets are funded from within the existing respective departmental reference levels. See Appendix C for more specific details on dollar values of the budgets and any limitations:

- ▶ Minister's salary and motorcar allowance (Budgets for the allowance for the Ministers of State reside with the Privy Council program and not with respective departments)
- ▶ Ministers' and Ministers' of State exempt staff salary budget;
- ▶ Ministers' and Ministers' of State operating budget; and
- ▶ Departmental staff salaries budget.

4.2 Transferring funds

Ministers and Ministers of State can transfer funds from their operating budget to their exempt staff salary budget and vice versa. The annual transfer limit is \$100,000 for Ministers and \$50,000 for Ministers of State. When funds are transferred to the exempt staff salary budget from the operating budget, the department must set aside an additional amount equal to 20 per cent of the funds to cover employee benefit costs. Alternatively if funds are transferred from exempt staff

salaries to the Minister's or Minister's of State operating budget the amount includes 20 per cent of the funds in lieu of employee benefit costs. This 20 per cent transaction takes place outside the Ministers' office budgets. Only specified direct costs can be charged to the exempt staff salary budget. No transfers to or from the departmental salary budget are permitted.

Ministers' and Ministers' of State may carry forward a maximum of 5% of their unexpended exempt staff and operating staff budgets from one fiscal year to the next. This authority does not extend to the Ministers and Ministers of State departmental staff budget.

4.3 Accountability

Expenditures against a Minister's or Minister's of State operating budget, or against the exempt staff budget for the portfolio or for other official government business, are charged against a "program" or "operating" expenditure vote in the appropriate department. The public money in these budgets should only be spent with the usual high standards of prudence and probity. The Treasury Board Secretariat periodically compiles data on how much each Minister's or Minister's of State office spends on such items as salaries for exempt staff and departmental staff, and operating costs.

Ministers and Ministers of State are individually responsible and accountable for dealing with all public inquiries about the expenditures made for their offices - whether by them directly, by their staff or on their behalf - including publicly justifying them if the need to do so arises.

4.4 Accounting for expenditures charged to Ministers' and Ministers' of State budgets

Expenditures against a Minister's or a Minister's of State exempt staff budget and operating budget must be limited to the types of expenditures that can be legally charged against each budget - in other words, the expenditures must clearly fall within the parameters (scope, purpose and limits) of the budget.

There are specific types of expenditures that should be charged to specific budgets in the Ministers' or Ministers' of State budgets as outlined below. There are some expenditures that may be reimbursed from the TB Vote 5 or charged to the departmental operating budget; these are also outlined below.

4.4.1 Ministers' and Ministers' of State salary and Motor Car Allowance

A Minister's and Minister's of State salary and motor vehicle allowance are statutory expenditures. This means that these resources are conferred on a continuing basis and are not voted upon annually by Parliament. However, as noted in section 6.2, the Ministers of the Treasury Board have established a policy covering motor vehicles.

4.4.2 Exempt staff salary budget

Ministers and Ministers of State, except the Prime Minister, receive a prescribed exempt staff salary budget to manage their Minister's or Minister's of State offices. This budget is over and above any budget to which the Minister or the Minister of State is entitled as a member of the House of Commons. The budget provided by the House of Commons is used to pay for staff in the House of Commons office and in the constituency office.

The Treasury Board periodically sets the size of a Minister's and Minister's of State exempt staff salary budget. The President of the Treasury Board notifies each Minister and Minister of State of the annual amount in writing. The exempt staff budget is to be allocated from within existing departmental reference levels.

Budgets cannot be exceeded. Ministers who wish to have their budgets increased must seek the approval of the Treasury Board. The Minister and the President of the Treasury Board should discuss all such requests first.

When a Minister or a Minister of State changes portfolios during the course of the year, the budget for the remainder of the year in the new portfolio is to be equal to the free balance remaining in the previously held portfolio as at the date of the change (after outstanding commitments have been paid). When a new portfolio is created, or when a Minister or a Minister of State is appointed to a portfolio after a change in government, the new Minister or Minister of State is allowed a pro-rated amount representing the budget for the balance of the fiscal year in progress, as set by the Treasury Board.

Only direct personnel costs can be charged to the exempt staff salary budget, including the following:

- ▶ salaries (including pay while on leave);
- ▶ pay for unused vacation leave, at the request of the exempt staff with the approval of the Minister or the Minister of State, on termination of employment, or paid out at the end of each fiscal year; and
- ▶ salary for the 30 days' employment to which exempt staff are entitled when a Minister or a Minister of State ceases to be a Minister or a Minister of State (see section 3.7.5).

4.4.3 Operating budget

A Minister's or Minister's of State operating budget covers all operating expenditures incurred by exempt staff or by departmental staff in the Minister's or Minister's of State office, provided that the costs are related to the conduct of portfolio or other official government departmental business.

The following costs will be charged to a Minister's or Minister's of State operating budget:

- ▶ official gifts, travel, hospitality and other services in relation to the department;
- ▶ conference and training costs for exempt staff;
- ▶ relocation of exempt staff to the Minister's or Minister's of State departmental office (on appointment only);
- ▶ office furniture and furnishings for Ministers, Ministers of State and their Private Secretaries that are over and above normal departmental standards;
- ▶ fees for professional outplacement services;
- ▶ the cost of professional and temporary help services for the Minister's or Minister's of State departmental office; and
- ▶ all other expenses related to the operation of a Minister's or a Minister's of State departmental office.

4.4.4 Other costs related to exempt staff personnel

Other exempt staff related costs, as described below are to be funded as indicated:

Departments may request funding centrally, through TB Vote 5, as for other public servants:

- ▶ maternity/parental benefits (Supplemental Employment Benefit);
- ▶ vacation pay for unused vacation leave on termination of employment when at termination of employment employee is eligible for severance pay;
- ▶ severance pay.

Departmental Operating budgets:

- ▶ separation pay.

4.4.5 Departmental staff salary budget

Costs related to departmental personnel assigned to a Minister's office must be charged to the departmental salary budget. These costs must be accounted for separately as part of the Minister's office expenditures. Costs such as equalisation payments, bilingualism bonuses, and overtime are to be included in the Minister's departmental staff salary budgets. Other personnel-related costs will be funded in accordance with existing departmental practices for Public Service employees.

4.5 Financial Authorities

Treasury Board policies related to financial management are generally found in the Comptrollership policies, which can be found at internet address:

http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/TBM_142/siglist_e.asp. These policies provide

directives and guidelines governing the accounting and control of expenditures and outlines the framework for exercising financial authorities to satisfy the requirements of the *Financial Administration Act* (FAA). Essentially, there are two types of authority related to expenditures - spending authority and payment authority.

Two major requirements related to financial authorities are: 1) No person can exercise both spending or payment authority for a payment, and 2) no person can exercise spending authority over a payment from which he or she can benefit personally, neither should a person be involved in any of the processing steps with respect to his or her own pay and benefits.

Reference: Treasury Board Policy on Delegation of Authorities, which can be found at internet address: http://www.tbs-sct.gc.ca/Pubs_pol/dcgpubs/TBM_142/2-1_e.asp.

4.5.1 Spending Authority

Spending authority consists of four elements – expenditure initiation, commitment control, contracting and confirmation of contract performance and price.

The Minister or the Minister of State is responsible for and has spending authority over the exempt staff and Minister's or Minister's of State operating budgets. Often, the Minister will delegate some of this authority to the Chief of Staff or other senior exempt staff. In the case of Ministers of State, some of this authority may be delegated to the Chief of Staff. However, this delegation does not apply in instances where a Minister or a Minister of State wishes to hire, dismiss or set salaries for exempt staff.

4.5.1.1 Expenditure Initiation

This authority is delegated to Ministers and Ministers of State to initiate expenditures against their budgets, to requisition goods and services, to hire staff, extend hospitality, and the like. However, before the expenditure is actually made, the contract entered into, or the arrangement made, there must be a confirmation that funds are available – the commitment authority.

4.5.1.2 Commitment Authority

Under section 32 of the FAA, Ministers or Ministers of State, or Financial Officers acting on their behalf, must control commitments and ensure that funds are available within existing appropriations to discharge the financial commitment that would result from the contract or other arrangement.

Controls over commitments and expenditures must be maintained to ensure that neither the exempt staff nor the Ministerial operating budgets are overspent.

Reference: Treasury Board Policy on Control of Commitments, which can be found at internet address: http://www.tbs-sct.gc.ca/Pubs_pol/dcgpubs/TBM_142/2-4_e.asp.

4.5.1.3 Authority to Contract

The authority to acquire material and goods is delegated to the Minister or the Minister of State from the Minister of Public Works and Government Services Canada. The Minister or the Minister of State is ultimately responsible to Parliament for all contracting activity. Within the Minister's or Minister's of State office, the authority to contract may be delegated to the Minister's Chief of Staff or other senior exempt staff or to the Minister's of State Chief of Staff.

Officials delegated such authority are to exercise it with prudence and probity so that the responsible Minister is acting and is seen to be acting within the letter and the spirit of the *Financial Administration Act*, the Government Contracts Regulations and the Treasury Board's contracting directives and policy. Please see part 7 for further details on contracting.

As of March 2004, the Government announced a new policy on the mandatory publication of contracts over \$10,000. Please see section 7 for further details.

4.5.1.4 Certification and Verification, Payment for Work, Goods or Services

Expenditures incurred by Ministers, Ministers of State and their exempt staff are subject to the account verification process and must be certified under section 34 of the FAA prior to payment.

Under section 34 of the FAA Ministers and Ministers of State are obligated to confirm that goods have been received or the work performed satisfactorily and that the price charged is correct. This account verification process includes checking that the relevant contract terms and conditions, including price, quantity and quality have been met, and if an advance payment is being made that it is required by the contract and that all relevant statutes, regulations, Orders in Council and Treasury Board policies have been complied with. Financial Officers with payment authority under FAA section 33 are responsible for the quality of the account verification process performed pursuant to FAA section 34.

The account verification process must provide for auditable evidence of verification including the identification of the various individuals who performed the verification.

Reference: Treasury Board Policy on Account Verification, which can be found at internet address: http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/TBM_142/Accver_e.asp.

4.5.2 Payment Authority

Payment authority is the authority to requisition payments. Pursuant to section 33 of the FAA and the Payments and Settlements Requisitioning Regulations, requisitions for payments may only be made if the payment has been verified under section 34, if there are sufficient funds available in the appropriation to make the payment and if the payment has not been made previously.

Payment authority is usually delegated to departmental financial officers.

The departmental financial staff verifies the Minister's or Minister's of State certification (or that of a delegate) under section 34 and any required supporting documentation before requisitioning payment under section 33.

While, for reasons of confidentiality, some payment requests by Ministers and Ministers of State do not have to be supported by receipts and other documents that provide evidence of goods and/or services received, these supporting documents should nevertheless be retained in the offices of the Ministers or Ministers of State. In the absence of supporting documentation, there is normally a requirement for an official certification or attestation by the Minister or the Minister of State, and an original signature (not that of a delegate) is required.

Reference: Treasury Board Policy on Payment Requisitioning and Payment on Due Date, which can be found at internet address: http://www.tbs-sct.gc.ca/Pubs_pol/dcgpubs/TBM_142/2-6_e.asp.

4.6 Internal audit

It is government policy that departments:

- ▶ Have an effective, independent and objective internal audit function that is properly resourced to provide sufficient and timely assurance services on all important aspects of its risk management strategy and practices, management control frameworks and practices, and information used for decision-making and reporting;
- ▶ Incorporate internal audit results into their priority setting, planning and decision-making processes; and
- ▶ Issue completed reports in a timely manner and make them accessible to the public with minimal formality in both official languages.

Any charges against the departmental appropriation, including those incurred by the Minister, the Minister of State, or their Minister's or Minister's of State offices fall within the scope of the internal audit function.

Part 5 Office Accommodation and Supplies

5.1 Office Accommodation

5.1.1 Introduction

Ministers and Ministers of State have offices on Parliament Hill as well as constituency offices which are both administered under the House of Commons guidelines and budgets and are completely separate from departmental headquarters offices and Ministers' Regional Offices which are outlined below.

The entitlements related to being a member of the House of Commons are explained in detail in the Member's Manual of Allowances and Services published by the House of Commons and questions related to these entitlements should be referred to the Comptroller's Office, House of Commons.

5.1.2 Departmental Headquarters Offices

Office requirements of Ministers or Ministers of State in the department's headquarters are normally accommodated within the space allocated to the department. The Ministers' or Ministers' of State requirements are normally co-ordinated by the Deputy Minister.

Public Works and Government Services Canada in consultation with the Departmental Facilities Management Group is responsible for initial fit-up of this space based on the functional and operational requirements and applicable cost guidelines. Changes to existing offices (during a Minister's or Minister's of State tenure or on appointment of a new Minister or Minister of State) are funded by the department.

5.1.3 Ministers' Regional Offices (MRO's)

Ministers' Regional Offices have been established for the use of all local and visiting Ministers, Ministers of State, and their officials in conducting government business in regions. These offices are not intended to duplicate the functions of the constituency offices and other support provided by the House of Commons.

Public Works and Government Services Canada is responsible for the establishment and operation of the Ministers' Regional Offices including common operating costs, construction, rent, fit-up, parking, etc.

Ministers' Regional Offices are operating in Vancouver, Edmonton, Calgary, Regina, Winnipeg, Toronto, Montreal, Quebec City, Halifax, Moncton, and St. John's. Therefore, the establishment of an individual Ministerial office outside the headquarters area requires specific approval by the Treasury Board prior to project initiation.

Ministers and Ministers of State are responsible for funding the direct cost over and above the common costs (such as added costs for regional exempt staff, resident exempt staff, hospitality, additional services and accommodation) of their use of the MRO's.

5.2 Office Furniture and Furnishings

5.2.1 Departmental Headquarters Offices

Office furniture and furnishings for a Minister's or Minister's of State personal office is not subject to the provisions of the Treasury Board Policy. As well, the furniture for the Minister's private secretary, who would generally be located within the Minister's ante room and waiting area, is not subject to the Treasury Board Policy. However, the offices of Ministers' staff located in premises occupied by the department are subject to the provisions of the Treasury Board Policy – Materiel Management, (Furniture and Furnishings), which can be found at internet address:

http://www.tbs-sct.gc.ca/Pubs_pol/dcgpubs/MaterielManage/siglist_e.asp.

The Department of *Public Works and Government Services Act* gives the Minister of Public Works and Government Services the mandate to acquire materiel for departments and thus the Act's provisions apply regardless of who uses the furniture and furnishings.

The department funds the acquisition of office furniture, fixtures and equipment, and their operation and maintenance costs.

5.2.2 Ministers' Regional Offices

These offices are subject to the provisions of the Treasury Board Policy in terms of office furniture and furnishings.

As a rule, all furniture and furnishings purchases are considered overhead or common costs.

5.3 Office Equipment and Supplies

The Treasury Board - Materiel Management Policy, applies to general office equipment and supplies for Ministers' and Ministers' of State departmental offices. Letterhead and stationery is covered by the Federal Identity Program.

Minister's and Minister's of State staff should refer to the House of Commons Members Allowance and Services Manual which would outline in detail the equipment standards and services required to facilitate House of Commons operations.

5.4 Stationery and printed media

5.4.1 Federal Identity Program

The Federal Identity Program (FIP) is the Government of Canada's corporate identity program. The Government of Canada has an obligation to make evident to Canadians, wherever they reside, how their taxes are used to provide programs, services and infrastructure. The government must project a consistent and coherent presence and identity to ensure that Canadians recognize, at a glance, their government at work for them. The Treasury Board Secretariat Federal Identity Program (FIP) establishes standards and requirements for managing the government's corporate identity. In 1998, Treasury Board ministers established nine additional FIP requirements aimed at strengthening the presence and visibility of the Government of Canada in all of its activities.

Each institution is responsible for managing its own corporate identity in compliance with the Federal Identity Program and policy, and related Treasury Board decisions. This information and the FIP design standards are available at

http://www.tbs-sct.gc.ca/pubs_pol/sipubs/tb_fip/fip-pcim2_e.asp.

Ministers and Ministers of State are required to write to the President of the Treasury Board on all matters related to establishing titles of institutions. Institutions must adopt an approved title (referred to as applied title) for their corporate signature, and use this title consistently when identifying the institution, except when there is a specific requirement for the legal title. Ministers must also write to the President regarding government-wide use of special symbols, decisions on FIP symbols (flag symbol or Coat of Arms) in corporate signatures, and for exemptions from the FIP policy.

5.4.2 Stationery

The design of Ministers' and Ministers' of State offices stationery is subject to the Federal Identity Program policy and design standards. The present design consists of a 40 % screened black Coat of Arms, black text and a black "Canada" wordmark with red flag, printed on white, recycled permanent paper. Further information is available at

http://www.tbs-sct.gc.ca/fip-pcim/man_2_1_e.asp.

5.4.3 News Releases and Kit Folders

Institutions must use the standard news release form and information kit folder. The Government of Canada's "no frills" publishing guidelines, call for streamlined government publishing and a common look for various communications products. The "no frills" guidelines are available at the following internet address: http://www.tbs-sct.gc.ca/Pubs_pol/ciopubs/TB_CP/nofrills_e.asp.

5.5 Telephones

Order in Council P.C. 1963-27/1260 allows Ministers and either their Chief of Staff or their Private Secretary to a private telephone paid for by public funds, given that these persons deal with government business beyond normal working hours. Ministers exercise this privilege in any one of the following locations: their constituency residence; their country residence; or their National Capital Region residence. Chiefs of Staff or Private Secretaries may have a telephone installed in either their National Capital Region residence or their country residence.

Ministers also receive codes giving them access to the government's cross-country telephone facilities from anywhere in Canada. Only the person assigned the authorization code is authorized to use it or should know what it is.

Special-purpose equipment may be available from the department to meet operational requirements, if the need for it can be justified and documented.

Part 6 Travel

6.1 Introduction

Ministers and Ministers of State intending to travel in Canada outside the National Capital Region should inform the Office of the Prime Minister of their destination and the nature of the event they will be attending.

Ministers and Ministers of State are excluded from the requirements to follow the terms of the Treasury Board Travel Directive (internet address: http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/TBM_113/td-dv_e.asp), as explained in the Treasury Board Special Travel Authorities which can be accessed at: http://www.tbs-sct.gc.ca/Pubs_pol/hrpubs/TBM_113/STA_e.asp. Ministers and Ministers of State should use the Public Works and Government Services Canada Government Travel Modernization Office / Shared Travel Services Initiative (GTMO/STSI) services, (previously the Government Travel Service, GTS) when booking travel related to departmental business, paid from departmental budgets, when pre-paid tickets are needed, (thereby benefiting from the government negotiated discounted airfares and flight insurance).

Ministers and Ministers of State travelling for their constituency should use the House of Commons Members Travel Service. Alternatively, Ministers and Ministers of State may book directly with carriers, or a travel agency/agent, and claim reimbursement following each trip, as long as the department is not billed directly by the travel suppliers.

Ministers and Ministers of State can use their Designated Travel Card (DTC) , use their personal credit card and be reimbursed for funds expended, and/or request an advance from their department for travel costs. Expenditures claimed, however, should reflect probity and prudence in conducting the affairs of the department or agency.

Information regarding advances, DTC's, and other financial matters is available from the Senior Financial Officer in each department. DTC's are to be used for official government business only.

6.1.1 Travel expenses

Although Ministers and Ministers of State are excluded from the requirement to follow the Treasury Board Travel Directive, it is recommended that Ministers and Ministers of State refer to that document since it provides good examples of the expenditures that are considered appropriate for program-related business travel.

In the interest of transparency, since January 1, 2004, Ministers and Ministers of State are required to post on their departmental web-site all travel expenses incurred during program-related business.

All travel expenses will be posted on a quarterly basis within 30 days following the last day of the quarter. The expenses posted on the web-site must include the following information:

- ▶ The period covered by the trip and the places visited;
- ▶ Transportation expenses; and
- ▶ Other expenses (such as, accommodation and meals).

All Parliamentary Secretaries and exempt staff of Ministers' and Ministers' of State will also be required to post all travel expenses on the departmental web-site (see section 6.1.3).

Travel expenses for Ministers and Ministers of State on program-related business include the following costs which are charged against the operating budget of the Minister or the Minister of State.

Transportation

- ▶ GTMO/STSI service costs (e.g. airline tickets);
- ▶ Fees paid to commercial carriers;
- ▶ Fees for the use of privately owned, government-owned or rental vehicles;
- ▶ Fees for the rental of trains, aircraft or marine transportation; and
- ▶ Other expenses for related services.

Other expenses

- ▶ Accommodation;
- ▶ Meals and incidental expenses;
- ▶ Luggage insurance when not provided by the carrier;
- ▶ Passports, visas, (and required photos) expenses;
- ▶ Telephone calls, facsimiles, internet connections, and messenger services;
- ▶ Office services; and
- ▶ Other travel-related services.

6.1.2 Reimbursement for travel expenses

Reimbursement procedures for the travel of Ministers on departmental business is governed by a letter from the Minister of Finance dated December 5, 1963, which refers to Cabinet direction (included as Appendix G). Based on the document, Ministers and Ministers of State are asked to submit as their travel claim a signed statement which includes:

- ▶ the period covered by the trip and the places visited;

- ▶ transportation expenses; and
- ▶ other expenses (such as, accommodation and meals).

This statement of expenses may be submitted on a monthly (rather than a per-trip basis) and must include the following certification, pursuant to section 34 of the *Financial Administration Act*:

“I certify that the foregoing expenditures have been incurred by me on official government business in (month) (year).” (Signed) Minister’s signature.

Even though Ministers and Ministers of State do not have to provide receipts and supporting documentation, these supporting documents should nevertheless be retained in their Offices.

The aforementioned 1963 letter also specifies that where requested advances are greater than the actual costs incurred, the difference should be remitted to the department in the form of cash, or a personal cheque made payable to the Receiver General for Canada.

6.1.3 Travel expenses – Ministerial staff

When a Minister or a Minister of State requires Parliamentary Secretaries or staff/exempt staff to travel on departmental business, their reservations should be via the GTMO/STSI and expenses should be in accordance with the Treasury Board Special Travel Authorities and/or the Treasury Board Travel Directive rates and allowances. Travel expenditures are chargeable to the Minister’s or Minister’s of State operating budget. They should be authorized by the Minister, Minister of State or the Chief of Staff (other than for his or her own travel), and reviewed by a Senior Financial Officer.

In addition, in the interest of transparency, as of January 1, 2004, Parliamentary Secretaries and all staff / exempt staff that are required to travel on department-related business must post on the Departmental web-site all travel expenses incurred. All travel expenses will be posted on a quarterly basis within 30 days following the last day of the quarter. The expenses posted on the web-site must include the following information:

- ▶ The period covered by the trip and the places visited;
- ▶ Transportation expenses; and
- ▶ Other expenses (such as, accommodation and meals).

When exempt staff accompany the Minister or the Minister of State, the appropriate signature is necessary to upgrade travel to business class, in the event that the Minister does not personally sign the travel authority.

Expenditures incurred by the Chief of Staff should be authorized by the Minister or the Minister's senior delegate for financial matters. Parliamentary Secretaries, Chiefs of Staff, and Ministers' Senior Policy Advisor, Director of Communications, and Director of Parliamentary Affairs have the same travel entitlements as the Executive Group EX-02 and above (reference to the Special Travel Authorities), except when accompanying the Minister, in which case the air travel entitlement may be upgraded if so determined by the Minister.

Expenditures incurred by the Chief of Staff should be authorized by the Minister of State.

Separate claims should be submitted when a member of a Minister's or a Minister's of State staff claims reimbursement for disbursements made on behalf of the Minister or the Minister of State and his or her own travel expenses. The former should be accounted for separately, included in any reports or ministerial travel expenses.

6.2 Executive vehicles for use by a Minister or a Minister of State

Unless a Minister personally directs otherwise, the department provides a motor vehicle for the Minister's official use on government, portfolio or Ministerial business and for personal use. Ministers of State are provided the same level of entitlement for motor vehicles as that provided to Ministers.

6.2.1 Official use

Official use encompasses any use of the vehicle for the effective conduct of official business, including constituency business, for which travel would normally be reimbursed by the House of Commons. Official use includes, but is not necessarily limited to, the following uses:

- ▶ travel to and from a departmental office, the House of Commons or any other place where business is transacted;
- ▶ travel to and from airports when proceeding on business travel or when meeting visiting dignitaries;
- ▶ travel to and from diplomatic or other social functions attended in a Minister's or Minister's of State capacity;
- ▶ travel under any circumstances when, for personal protection, the presence of a security officer is required;
- ▶ transportation of classified material to, from and between various work locations, including a Minister's or Minister's of State residence; and
- ▶ any other use that helps in the discharge of responsibilities as a Minister of the Crown or Minister of State.

6.2.2 Personal use

Ministers and Ministers of State are authorized to make personal use of the vehicle provided by their departments. However, they are required to pay for the privilege of personal use. The rate of payment is one per cent of the capital cost of the vehicle, per month (or 5/7 of 1% if weekend use is excluded). For purposes of computing the taxable benefit, this payment is made to the employer for the use of the vehicle and is deducted at source.

The executive vehicle is also available to the Minister's or the Minister's of State family and household for personal use whenever it is not required for official business. For *Income Tax Act* purposes, any use of an executive vehicle for anything other than official business generally constitutes a taxable benefit.

6.2.3 Selecting an executive vehicle

The maximum price limit for the purchase of an executive vehicle is adjusted annually by the Treasury Board Secretariat using the Consumers Price Index produced by Statistics Canada. The current price limit of \$32,100 is based on the actual price paid, i.e. the invoiced price as opposed to the advertised or manufacturer's suggested retail price. This price limit includes all options and accessories, as well as GST, provincial sales taxes and levies, and fees for delivery and preparation. Excluded are premiums associated with the purchase of alternative fuel vehicles that are in excess of the price for the same vehicle operating on gasoline. Information on the current maximum price limit can be obtained at internet address:

http://publiservice.tbs-sct.gc.ca/mm-gm/ev-vf/maxpri-primax_e.asp.

The executive vehicle standard requires that it be of a type and configuration that will provide for reliable, safe and effective transportation for the conduct of official business, such as a four-door sedan, passenger mini-van, or station wagon. In taking leadership on reducing greenhouse gas (GHG) emissions, executive vehicles will be one of the following:

- ▶ hybrid-electric;
- ▶ factory-equipped for natural gas, propane or E85 ethanol; or
- ▶ among the most efficient in their class.

The Treasury Board has approved administrative arrangements requiring the Minister of Public Works and Government Services to refuse to acquire an executive vehicle exceeding the standard.

Executive vehicles are to be acquired through procurement arrangements established by the headquarters of Public Works and Government Services Canada as detailed in the Executive Vehicle Policy, which can be found at internet address:

http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/materielmanage/motorveh_e.asp, and the Motor

Vehicle Policy, which can be found at internet address:

http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/materielmanage/motorveh_e.asp. A list of executive vehicles that can be purchased through PWGSC can be accessed through the following web-site: <http://publiservice.gc.ca/services/icpsss-spicsn/gmvog/executive2003-e.pdf>. Ministers' or Ministers' of State exempt staff should consult with Public Works and Government Services Canada headquarters before making any decision on the type of executive vehicle requested.

6.2.4 Maintaining executive vehicles

Ministers or Ministers of State who acquire vehicles, and their successors, are expected to continue using a vehicle over its useful life. The standard requires that executive vehicles not be replaced until they are 3 years old or have travelled at least 150,000 kilometres. The price limit indicated in paragraph 6.2.3 above will be reduced by 15 per cent if an executive vehicle is replaced before it reaches the 3-year or 150,000 kilometre standard. This will also apply in cases where the replacement vehicle selected is costing more than the lowest quoted price received by Public Works and Government Services Canada for the requested vehicle equipment and model. If a Minister's vehicle becomes surplus to requirements before its useful life is over, arrangements can be made for the vehicle to be redeployed through Public Works and Government Services Canada. A vehicle should not be disposed of outside the federal government when there are other eligible executives in need of it.

All the costs of operating and maintaining the motor vehicle are borne by the department. However, no public funds shall be used to pay fines for traffic violations, including parking violations. To ensure that the taxable benefit portion of operating executive vehicles is uniformly calculated, Treasury Board requires the department to record all information about usage and costs of operations in a systematic manner.

Like any other government vehicle, Ministers' or Ministers' of State vehicles are expected to be registered with a private-sector fleet management company for fuel, maintenance and repair. This would generally be the same company that is used for the departmental fleet. A credit card is provided and should be used to pay for all required fuel, repairs and maintenance for the vehicle. The use of the card allows automatic capture of vehicle data in the departmental fleet database.

Notwithstanding the normal government practice to "self-underwrite" government vehicles, all executive vehicles shall be fully insured commercially. Public Works and Government Services Canada is responsible for the purchase and administration of the proper insurance coverage. It pays up front for the coverage and invoices the appropriate departments accordingly on an annual basis.

Further information on insurance can be found in section 6.5 of the Executive Vehicle Policy, and in section 5 of its guidelines.

6.3 Air travel

Ministers and Ministers of State may travel on scheduled Department of National Defence (DND) flights without charge, and under certain circumstances may use administrative fleet aircraft provided by the Department of National Defence. Executive aircraft should be used only in cases where commercial air service is not available or suitable. These aircraft are to be used only when the purpose of the trip is to carry out ministerial or departmental business.

Ministers, Ministers of State, officials and other authorized personnel will not be charged for flights on DND Administrative Flight Services Challenger aircraft that are used for departmental or government business. The attached “Department of National Defence - Guidelines for use of Government Administrative Aircraft” Appendix D gives the full details on executive flights and how to arrange for them.

When people who travel commercially on government business qualify for financial benefits arising from travel, such as free tickets or compensation for rescheduled flights offered by airlines, these benefits are the property of the Crown. With respect to loyalty points such as Air Miles, the Treasury Board’s Travel Directive has been extended to Ministers, Ministers of State and their exempt staff. Under the Directive, loyalty points collected during official government travel can be used for business or personal travel. When used for personal travel, they are a taxable benefit. Please refer to the following for further information:

http://www.tbs-sct.gc.ca/travel/gtm-apgv/itlp-ipfv_e.asp. A questions and answers document can be obtained at: http://www.tbs-sct.gc.ca/travel/gtm-apgv/qatmp-qrpmv_e.asp. Ministers, Ministers of State, and Parliamentary Secretaries and their family members are prohibited from travel on non-commercial chartered or private aircraft except in exceptional circumstances and may only be accepted with the prior approval of the Ethics Commissioner (section 20 of the Conflict of Interest and Post-Employment Code for Public Office Holders). In such cases, the Minister or the Minister of State will make a Public Declaration within 30 days that identifies the source and the circumstances (section 22 of the Code).

First class air travel for Ministers and Ministers of State has been restricted as a result of the February 1992 budget, as one of the initiatives to reduce government spending. Economy or business class should be selected within the continental United States and Canada.

For overseas flights, first class travel may be selected in limited circumstances such as, when Ministers and Ministers of State are obliged to conduct business shortly after deplaning, when there is no business class service on a given flight, for air travel in excess of nine hours, or for specific medical reasons.

6.4 Rail travel

Ministers and Ministers of State may use the free railway travel afforded all Members of Parliament and their families.

6.5 International travel (government business)

When considering travel arrangements abroad, Ministers and Ministers of State must seek the approval of the Prime Minister's Office. They must also consult with the Minister of Foreign Affairs on the foreign policy aspects and with the Leader of the Government in the House of Commons and the Deputy Leader of the Government in the House of Commons and Chief Government Whip about the demands of the House of Commons.

The Prime Minister's Office, acting on behalf of the Prime Minister, will authorize the travel, as appropriate, bearing in mind government priorities and other ministerial absences from Ottawa. No trip should be planned or in any way confirmed until it is cleared through the Prime Minister's Office.

Once the trip is approved, procedural and substantive arrangements for the visit, including contact with host governments and program development, must be made through the Minister of Foreign Affairs and the Department of Foreign Affairs.

6.6 International travel (private)

When considering foreign private travel, Ministers and Ministers of State should, well before departure, inform the Minister of Foreign Affairs in writing so that the department can advise them about any issues that could complicate their visit. This practice applies especially to countries which are designated by Canada as requiring special consideration or security precautions.

6.7 Ministers' and Ministers' of State spouses

Minister and Ministers of State, at their discretion, may be accompanied on government owned and/or operated aircraft by their spouses. There is no charge for the spouse's flight. All other travel expenses incurred by spouses will be reimbursed and charged against the Minister's or the Minister's of State operating budget only if the attendance of the spouse at an official function is essential for reasons of protocol, if the spouse is to act as host or hostess, or if the spouse is to assist the Minister or Minister of State in the conduct of his or her responsibilities.

When spouses are authorized to travel, their expenses are reimbursed by the department concerned in accordance with the provisions of the Treasury Board Directive on Travel. As indicated in Canada Revenue Agency's (CRA) interpretation Bulletin IT 470R, (Consolidated), these reimbursements may be taxable, depending on the circumstances.

6.8 Travel by Members of Parliament with or on behalf of a Minister

Where a Member of Parliament is travelling either with or on behalf of a Minister on Departmental business, subject to approval by the Minister, these costs may be charged to the Department. In accordance with the *Special Travel Authorities*,

http://www.tbs-sct.gc.ca/Pubs_pol/hrpubs/TBM_113/STA_e.asp, when Members of Parliament travel on such Departmental business, their travel expenses are governed by the *Travel Directive*, specifically the provisions for “travellers”, however, such travel is subject to trip approval by the Office of the Privy Council. In addition, all such travel must be disclosed in accordance with proactive disclosure requirements.

6.9 Transportation allowance for staff overtime

When a staff member is required to return to work or to remain at work after normal and reasonable public transportation has ceased, the Minister or the Minister of State has the discretion to authorize a taxi or the kilometric allowance between the person’s residence and the workplace based on the province in which the vehicle is plated (reference Treasury Board Travel Directive Appendix B). Only the portion between work and home is reimbursed for contiguous after hours work, and this is done only when reasonable public transportation is unavailable.

Part 7 Contracting

7.1 Introduction

Ministers and Ministers of State operate in two distinct environments, each with separate budgets (sources of funds) and a legislative and policy frameworks. Specifically, ministerial offices are subject to *Financial Administration Act*, regulations and Treasury Board policies.

This differs from the requirement for Members of Parliament offices and budgets that are subject to special provisions under the *Parliament Act*.

This includes adherence to ensure that the Government Contracts Regulations are respected, and that the *Financial Administration Act*, section 32 (making a commitment that the funds to pay for the work to be undertaken is available), section 33 (that all the necessary verification has taken place to ensure a payment is valid) and section 34 (that the work was performed in accordance with the contract) requirements are met.

Ministers' and Ministers' of State staff are encouraged to consult their departmental procurement specialists when conducting procurements. The complete policy is available on the Treasury Board's web-site at: http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/Contracting/contractingpol_e.asp.

7.1.1 Treasury Board Contracting Policy

The Treasury Board Contracting Policy is based on ensuring not only that the services and products needed to deliver an office's responsibilities are delivered, but also demonstrate fairness, openness and the achievement of best value in the spending of taxpayer's money. Key legislative, regulations and policy provisions govern government contracting activities. Government contracting must ensure prudence and probity, ensure the pre-eminence of operational requirements and when possible support long-term industrial and regional development as well as any other national objectives.

The Government Contracts Regulations require the solicitation of bids except where:

- (a) the need is one of pressing emergency in which delay would be injurious to the public interest;
- (b) the estimated contract expenditure is below \$25,000;
- (c) the nature of the work is such that it would not be in the public interest to solicit bids; or
- (d) only one supplier can do the work.

As well, the government is signatory to three trade agreements that affect government procurement which establish thresholds for various types of procurement:

- (a) North American Free Trade Agreement, (NAFTA), Chapter 10;
- (b) World Trade Organization – Agreement on Government Procurement (WTO-AGP);
- (c) Agreement on Internal Trade (AIT) Chapter Five.

The Government Contracts Regulations are found in Appendix B of the Treasury Board Policy on Contracting. References and links to the trade agreements are provided throughout the policy. In addition to outlining key policy aspects of tendering, the policy also sets limits on a department's authority to contract without first seeking Treasury Board approval.

Contracting authorities must not split contracts or contract amendments in order to avoid obtaining either the approval required by statute, the Treasury Board Contracts Directive or appropriate management approval within the department or agency.

7.2 Employer-employee relationships

Except for those contracts of employment that are exempted pursuant to section 39 of the *Public Service Employment Act* (PSEA), Ministers and Ministers of State shall not enter into contracts for the services of individuals when the terms of the contract or the actual work situation would result in an employer-employee relationship. Before entering into a contract, Ministers and Ministers of State should seek the advice of their departmental legal advisor and procurement specialist to ensure that there is no potential employer-employee relationship in the contract. For guidance in assessing an employer-employee relationship:

- ▶ Consult Canada Revenue Agency's (CRA) current guidance, for example, "Employee or Self-Employed", publication number RC4110 or visit <http://www.cra-arc.gc.ca/E/pub/tg/rc4110/README.html>
- ▶ Refer to sections 16.2 and 16.3 of the Treasury Board Contracting Policy or,
- ▶ Seek legal advice from the Department of Justice where it is not feasible for officials to determine whether a contract is a contract for services or a contract of employment in situations where employment status is not easily identifiable.

7.3 Fee guidelines

There are no specific fee guidelines for contracts, which can be established through a variety of mechanisms. Information can be obtained from departmental specialists or Public Works and Government Services Canada. When there is no competition, the onus is on the contractor to prove

that any fees charged to the government are comparable or similar to those charged to or obtained from the private sector for comparable or similar work. Contracts may also contain standard terms and conditions identifying an audit provision. Appendix J of the Treasury Board Contracting Policy – Selection process and establishment of fees for consulting and professional services – can be found at internet address:

http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/Contracting/contractingpol_j_e.asp.

7.4 Former government officials

Contracts for the services of former government officials must be able to bear the closest public scrutiny. No contract for the services of a former official shall be entered into unless the individual Minister or Minister of State is satisfied that it would be in the public interest to do so. Potential contractors may be subject to either the Conflict of Interest and Post-Employment Code for Public Office Holders (2003) which is available at the following internet address,

<http://www.parl.gc.ca/oec-bce/site/pages/ethics-e.htm>, or the Values and Ethics Code for the Public Service available at: http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/TB_851/vec-cve_e.asp. Other

considerations of a general nature are discussed in the Treasury Board Secretariat – Contracting Policy (section 16.8, Appendix C), which can be found at internet address:

http://www.tbs-sct.gc.ca/Pubs_pol/dcgpubs/Contracting/contractingpol_e.asp.

7.5 Temporary help services

Government policy is that employees of temporary help companies are to be used only in those situations where it is not feasible to assign exempt staff, departmental employees, or other Public Service employees. Temporary services are normally engaged when there is a short term vacancy, when an exempt staff member or Public Service employee is absent for a short period, or when there is a temporary increase in workload for which staff are not available. Ministers and Ministers of State must try to meet their short-term needs with existing staff or term appointments.

When contracting for temporary help services (administrative support and other categories) contracting authorities should give consideration to obtaining these services directly from companies with which the Department of Public Works and Government Services has entered into temporary help standing offers. Contracting authorities have the option of acquiring temporary help through a standing offer established by Public Works and Government Services Canada, or by dealing directly by means of a separate departmental standing offer or a contract with other suppliers. Further information on the existence of temporary help standing offers may be obtained from the Department of Public Works and Government Services.

It should be noted that contract-splitting is unacceptable and forbidden. Separate contracts should be entered into with temporary help firms each time a call-up is made against a standing offer for temporary help services.

Contracts for Temporary help may poses the risk of creating Employer-Employee relationships which must be avoided as identified in section 7.2.

Additional information on Temporary Help services can be found in Appendix I of the Treasury Board Contracting Policy – Temporary Help Services (internet: http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/Contracting/contractingpol_i_e.asp.)

7.6 Proactive Disclosure of Contracts over \$10,000

On March 23, 2004, the Government announced a new policy on the mandatory publication of contracts over \$10,000 in order to enhance the role of Parliament and increase transparency so that Canadians are better able to hold Parliament and public sector officials to account. Posting began on October 31, 2004 for the first two fiscal quarters of 2004, and continues on a fiscal quarter basis every three months thereafter. The publication of contracts will be updated to include information on new contracts awarded.

The new requirement consists of the disclosure of procurement contracts for goods and services dating back to April 1, 2004 for federal departments and agencies listed on Schedules I, I.1, and II of the *Financial Administration Act*. Offices of Ministers and Ministers of State are subject to *Financial Administration Act*, regulations and Treasury Board policies.

Departments and agencies listed on Schedules I, I.1, and II of the *Financial Administration Act* will be required to report the data on their web-sites (even where Public Works and Government Services Canada (PWGSC) has issued the contract on their behalf), within 30 days of the end of each fiscal period and to update it every three months. The contract information reported includes: vendor name, number used in the financial system, contract date, description of work, contract period for services, delivery date of goods, and contract value.

Please note that information that would normally be withheld under the *Access to Information Act* and the *Privacy Act* does not appear on this website. Contracts, such as those relating to national security or law enforcement are exempt from the reporting requirement.

Ministerial staff are encouraged to discuss the requirements for proactive disclosure with Departmental Contracting Officials. Additionally, for more information on the posting of contract information on-line, please see the Treasury Board of Canada Secretariat Web-site at www.tbs-sct.gc.ca/pd-dp/index_e.asp.

Part 8 Services and Hospitality

8.1 Parking

A Minister's vehicle, being the property of the Crown, is allotted a parking space at the Minister's office.

A Minister's Chief of Staff is entitled to receive a 50 % rebate on his or her monthly parking charges at either Crown-owned or leased premises, or commercially operated parking premises. However, the amount reimbursed for commercial parking premises shall not exceed 50 per cent of the established monthly rate for Crown-owned or leased parking spaces in that area. Reimbursement for either private or Crown parking is deemed a taxable benefit where the rate paid by the employee is not fair market value.

All other staff members must pay for their parking in government parking areas at the same rates paid by Public Service employees.

8.2 Relocation

A Minister or a Minister of State may, at his or her discretion, reimburse the relocation expenses of appointees who accept employment as exempt staff. Relocation expenses are not normally reimbursed to a person on initial appointment as exempt staff for a position whose maximum salary is below the equivalent level for a Public Service EX position, however, such assistance may be negotiated between the Minister or the Minister of State with the individual under the authority of the Special Relocation Authorities (Part 3 – Relocation Expenses – Members of Ministers' staff) which is found at the following internet address http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/TBM_113/irp_e.asp. Any negotiated relocation assistance for those individuals would be paid from the Minister's or Minister's of State own operating budget. The relocation assistance offered to those appointed by the Minister or the Minister of State to exempt staff positions whose maximum salary is equivalent to a Public Service EX position may be up to the full provisions of the Integrated Relocation Program Directive (http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/TBM_113/irp_e.asp). A third party service provider provides professional relocation assistance which is co-ordinated through each Departmental National Coordinator which should be the first point of contact for any relocation enquiries or assistance. The letter of offer or other correspondence to be placed on the appointee's file should clearly state the specific relocation expenses to be reimbursed to the appointee, including a provision for pro-rated recovery of expenses for early voluntary termination of employment, consistent with Treasury Board policies. There are no provisions for reimbursing relocation expenses on completion of employment. No relocation expense should be initiated by the appointee prior to obtaining formal authorization.

8.3 Hospitality and gifts

8.3.1 Hospitality – Ministers and Ministers of State

The Treasury Board Hospitality Policy can be found at http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/TBM_113/HOSP_e.asp. While events that a Minister or a Minister of State hosts personally are exempt from the policy, the guidelines set out in the hospitality policy are appropriate to hospitality extended on behalf of the government. These guidelines list the appropriate occasions, the various forms of hospitality, and the types of facilities, which should preferably be government owned, but which must never be commercial facilities that indulge in discrimination practices.

Because it might seem that Ministers and Ministers of State benefit personally from hospitality functions, they should be aware that high standards are expected of them. They should avoid giving the slightest impression of using public funds and facilities for anything other than purely official purposes.

8.3.1.1 Accounting

When seeking reimbursement of hospitality expenditures, Ministers and Ministers of State must make a statement that includes the following sentence:

“I certify that the foregoing expenditures have been incurred by me on official business in (month) (year).”

(Signed) Minister’s signature

This certification is pursuant to section 34 of the *Financial Administration Act*.

In the interest of transparency and accountability, since January 1, 2004, Ministers and Ministers of State are required to post on their Departmental web-site all hospitality expenses. All hospitality expenses will be posted on a quarterly basis within 30 days following the last day of the quarter. The expenses posted on the web-site must include the following information:

- ▶ The total amount of hospitality incurred; and
- ▶ The establishment / restaurant where the hospitality occurred.

All Parliamentary Secretaries and exempt staff of Ministers and Ministers of State will also be required to post all hospitality expenses on the Departmental web-site (see section 8.3.2)

Ministers and Ministers of State should maintain complete records of each hospitality occasion so that they can respond to any questions that may later arise.

8.3.2 Hospitality – Ministers' and Ministers' of State staff

There may be instances when a Minister or a Minister of State requires a Parliamentary Secretary or staff member to extend hospitality on behalf of the Minister, Minister of State or the department. Such hospitality may be necessary because it will economically facilitate the business of the department or agency or because it is considered essential as a matter of courtesy or protocol. In these instances, such hospitality shall be extended in accordance with the Treasury Board Policy on Hospitality and all the requirements for documentation shall be met. Claims for reimbursement should be approved by the Chief of Staff, the Minister or the Minister of State (as the case may be).

Separate claims should be submitted when a member of a Minister's or Minister's of State staff claims reimbursement for his or her own hospitality expenses and for hospitality disbursements made on behalf of the Minister or the Minister of State. The latter should be accounted for separately, included in any reports of ministerial office expenses, and accompanied by the ministerial certification.

In the interest of transparency and accountability, since January 1, 2004, Parliamentary Secretaries and Ministers and Ministers of State exempt staff are also required to post on their Departmental web-site all hospitality expenses. All hospitality expenses will be posted on a quarterly basis within 30 days following the last day of the quarter. The expenses posted on the web-site must include the following information:

- ▶ The name of the staff / exempt staff who provided the hospitality,
- ▶ The total amount of hospitality incurred, and
- ▶ The establishment / restaurant where the hospitality occurred.

8.3.3 Gifts, hospitality, or other benefits received

The Conflict of Interest and Post-employment Code for Public Office Holders, <http://www.parl.gc.ca/oec-bce/site/pages/ethics-e.htm> (sections 19 to 22) states that gifts, hospitality and other benefits, which could influence public office holders in their judgment and in the performance of official duties and responsibilities, shall be declined. When in doubt the Ethics Commissioner should be consulted to obtain approval.

Acceptance by public office holders or members of their families of offers of gifts, hospitality or other benefits arising out of activities associated with the performance of the public office holder's official duties and responsibilities is not prohibited if such gifts, hospitality or other benefits meet the following conditions:

- (a) They are within the normal bounds of propriety, a normal expression of courtesy or protocol or within the normal standards of hospitality;

- (b) They are not such as to bring suspicion on the Minister's or Minister's of State objectivity and impartiality; and
- (c) They would not compromise the integrity of the Government.

Invitations to attend special events (such as, but not limited to, sporting events and performing arts) are not prohibited provided that the above criteria are met and provided that attendance serves a legitimate business purpose, the person or a representative of the organization extending the invitation is in attendance, and the value is reasonable and the invitations are not frequent.

In keeping with existing practice, gifts, hospitality and other benefits are permitted if received from relatives and close personal friends, or are of reasonable value and received from a government or in connection with an official or public event.

Where the Ethics Commissioner determines appropriate, where a gift accepted under the above conditions, other than gifts from relatives or close personal friends, has a value of \$1,000 or more, the public office holder shall make arrangements for the gift to be placed into the government inventory.

Where the total value of all gifts, hospitality or other benefits received, directly or indirectly, by a public office holder or his/her family, exceeds \$200, from any one source other than relatives and close personal friends in a twelve-month period, such gifts, hospitality and benefits shall be disclosed to the Ethics Commissioner.

Where a public office holder or a member of his or her family directly or indirectly accepts any gift, hospitality or other benefit, in accordance with the conditions mentioned above, that has a value of \$200 or more, other than a gift, hospitality or other benefit from a relative or close personal friend, the public office holder shall notify the Ethics Commissioner and make a Public Declaration that provides sufficient detail to identify the gift, hospitality or other benefit received, the donor and the circumstances.

Where there is doubt as to the need for a Public Declaration the public office holder must consult the Ethics Commissioner.

Once signed, this declaration will be available for reading by the public from the web-based Public Registry found at the Ethics Commissioner's web-site (<http://www.parl.gc.ca/oec-bce/site/pages/ethics-e.htm>).

8.3.4 Gifts given

It has been government practice that official gifts and mementoes are presented only on occasions where:

- ▶ they further international relations;
- ▶ official hospitality abroad is involved; or
- ▶ foreign visitors or delegations are hosted in Canada.

Whenever any of these circumstances arise, a Minister's or Minister's of State staff should contact the Gift Bank, which is operated by the State Ceremonials Directorate of the Department of Canadian Heritage. The Gift Bank also ensures that official gifts are distinctively Canadian. Appropriate gifts include contemporary arts and crafts, or items representative of Canadian culture, arts and cultural products or Canadian manufacturing. The Gift Bank can provide advice on appropriate types of gifts, and will ensure that official gifts are of a value suitable to the status of the recipient.

If a gift other than those from the Gift Bank is being considered, and as a last recourse and under exceptional circumstances, certain authorities may be needed. These may include the authority to make the acquisition of the gift a legitimate expenditure of public funds, and the authority to transfer the gift. A submission to the Treasury Board for a recommendation to the Governor in Council may be required to secure such authorities.

8.4 Memberships

In accordance with Treasury Board Policy on Memberships and Registration Fees, contained in the "Employee Entitlements", which can be found at internet address:

http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/TBM_113/CHAP6_1_e.asp, the department or agency may reimburse Ministers' and Ministers' of State exempt staff for memberships and registrations. Memberships are limited to departmental requirements and should be held in the department's name whenever possible. Memberships that are not a legal requirement of the position and whose main purpose is to increase the public's contact with departmental operations should be authorized only in the most exceptional circumstances. The reasons justifying these memberships must be beyond question, particularly when they include social or recreational facilities considering that exempt staff may have specific requirements in the course of their political duties which are distinct and separate from departmental requirements.

8.5 Conferences

Participation in major international government conferences headed by a Minister or, Minister of State should be limited to a delegation of eight Canadian representatives, where possible. These eight include Ministers' and Ministers' of State staff, but exclude essential technical personnel.

The Deputy Minister of Foreign Affairs should be advised of delegations where representation may include more than one department, in order to co-ordinate the overall Canadian representation.

The lead departmental Minister or Minister of State heading the delegation has the final decision as to the number of representatives.

8.6 Legal services

Under the *Government Contracts Regulations*, contracts to perform legal services may be entered into only by or under the authority of the Minister of Justice.

8.6.1 Indemnification and Legal Assistance

This protection is currently identical to those covering Crown servants, as set out in the Policy on the Indemnification of and Legal Assistance for Crown Servants, which can be found at the internet address: www.tbs-sct.gc.ca/pubs_pol/hrpubs/tb_851/pila_e.asp. Ministers, Ministers of State and their exempt staff will be entitled to indemnification against personal civil liability and will be eligible for legal assistance, provided they meet basic policy requirements, which are to have acted honestly and without malice within the scope of their duties and met reasonable expectations. This need may arise from any act or omission of the Minister or the staff member in the conduct of portfolio or other official government business.

Part 9 Official Languages

9.1 Official Languages

Ministers and Ministers of State as well as their staff must act in accordance with the prescriptions and requirements of the legislative, policy and program framework described here. Provisions and requirements applicable respectively to Ministers' and Ministers' of State parliamentary, departmental and constituency offices can differ.

9.2 Background

The Canadian Charter of Rights and Freedoms states that English and French are the official languages of Canada and have equal rights and privileges in all institutions of Parliament and government and sets out several other provisions on official languages.

The *Official Languages Act* (1988) gives effect to the Charter provisions on English and French as official languages. The Act and the Official Languages Regulations govern the provision of service to the public in both official languages. There are also policies concerning the application of the Act and Regulations as well as mechanisms in support of the Official Languages Program, most notably access to language training and the provision of translation and interpretation services.

Together, the Act and the Regulations set out the circumstances in which communications with and services to the public are to take place in either official language at the public's choice.

Section 22 of the *Official Languages Act* apply to those offices of Ministers and Ministers of State located in the National Capital Region (NCR). The Regulations apply to those offices that are not located in the NCR. There is a Directory of Offices and Service Points (BUROLIS) that serve the public, which identifies all offices and service points with the obligation to provide services and communications in both official languages and is found at <http://www.burolis.gc.ca/>.

Also, employees of federal institutions have the right to work in the official language of their choice in regions designated bilingual for that purpose when they are not serving the public if their position is bilingual or unilingual in their own language.

The government is committed to achieving, with due regard to the merit principle, equitable participation as well as, equal opportunities for employment and advancement of English-speaking and French-speaking Canadians in federal institutions.

Each institution that is subject to the Act is responsible for its implementation within its area of responsibility.

The Public Service Human Resources Management Agency of Canada has responsibilities of general direction and coordination regarding the Act's requirements on service to the public, language of work and equitable participation in all subject institutions; the Senate, the House of Commons and the Library of Parliament are subject to the *Official Languages Act*, but are not required to follow The Public Service Human Resources Management Agency policies on official languages, and are not accountable to the Public Service Human Resources Management Agency for their performance.

9.3 Service to the Public

Ministers' and Ministers' of States offices located in the National Capital Region must have the capacity to communicate with and serve the public in both official languages. This obligation must effectively be discharged in all aspects of their interface with the public, be they written or oral communications. Ministers' offices must therefore have enough qualified staff to meet these requirements which go from simple bilingual reception on the premises and on the telephone to an ability to deal with the public on substantive issues in both official languages.

9.4 Language of Work

The National Capital Region (NCR) is one of the regions designated as bilingual for language of work. In Ministers' and Ministers' of States offices that are located in the NCR, a work environment must be created that allows employees to use the official language of their choice when they are not serving the public. This must be reflected in the conduct and character of meetings, in the acceptance of documents and presentations in either official language, and in the issuing of instructions. Employees occupying bilingual positions or positions requiring the use of either English or French exclusively, must be supervised or have supervision available to them in the language(s) of the position(s) supervised so that employees can speak and write in the official language of their choice.

9.5 Equitable participation

The *Official Languages Act* commits the federal government to ensuring that English-speaking and French-speaking Canadians have equal opportunities for employment and advancement within federal institutions without regard to their ethnic origin or their first language learned. The composition of the work-force of federal institutions should therefore reflect the presence of both linguistic communities. Ministers' offices should take these principles into account when establishing the composition of the personnel that will enable an office to meet a Minister's office needs and the office's obligations as regards service to the public and language of work.

9.6 Support mechanisms

Ministers' and Ministers' of State exempt staff should consult the deputy head of their departments for additional general information on official languages. Departments have a Director of Official Languages or another official responsible for official languages within the department. This person can answer specific questions on departmental official languages programs, policies and issues. More general questions may also be directed to the Office of the Vice-President, Official Languages Branch of the Public Service Human Resources Management Agency of Canada, (613) 952-2932.

There are support mechanisms to help in meeting official languages requirements in federal institutions including language training and translation services. There are Treasury Board policies on determining the language requirements of positions, and staffing bilingual positions (http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/OffLang/dsbp-ddpb_e.asp) as well as a directive on language training and learning retention: http://publiservice.tbs-sct.gc.ca/pubs_pol/hrpubs/OffLang/dltlr-dflma_e.asp. There is a guide for the use of translation services. Language training can be made available to Ministers, Ministers of State and their staff to enable those who require a knowledge of both official languages to perform their duties. Translation and interpretation services are also available. These services, when provided within departments and agencies, are on a cost-recovery basis through departmental operating budgets. The cost-recovery principle does not apply when these services are provided through the Senate, the House of Commons or the Library of Parliament.

Part 10 Information Management

10.1 Information management

Ministers and Ministers of State will usually have papers in their offices that fall into four general categories: Cabinet documents, institutional records, ministerial records, (as defined in section 2 of the *National Archives Act*) and personal and political records. Each of these categories has its own set of considerations under the *Access to Information Act*, the *Privacy Act* and the *Canada Evidence Act*.

Ministers and Ministers of State should maintain separate information systems for Cabinet documents, institutional records, ministerial records, and personal and political records. Ministerial records must be transferred from the office of the Minister or the Minister of State to the Library and Archives of Canada in accordance with schedules approved by the Librarian and Archivist of Canada. Deputy Ministers should advise Ministers, Ministers of State and their staff on these matters. The Treasury Board Policy on Management of Government Information can be accessed at the following web-site: http://www.tbs-sct.gc.ca/pubs_pol/ciopubs/TB_GIH/mgih-grdg_e.asp. Advice can also be obtained from the Government Records Branch at Library and Archives Canada, which publishes Guidelines for Managing Recorded Information in a Minister's office available at: http://www.collectionscanada.ca/06/docs/minister_e.doc. Library and Archives Canada Multi-Institutional Disposition Authorities and Retention Guidelines may be accessed at the following web-site: <http://www.collectionscanada.ca/>. Special precautions must be taken to guarantee the security of Cabinet documents, in accordance with procedures established by the Privy Council Office on the Prime Minister's behalf. Most importantly, when a Cabinet item has been dealt with, the associated Cabinet documents must be returned to the Privy Council Office. Successive Prime Ministers have also agreed that the Clerk of the Privy Council, with Deputy Ministers, will ensure that Confidences of the Queen's Privy Council for Canada contained in records left in government custody by Cabinet, Ministers and Ministers of State will be protected from access by successive governments.

10.1.1 New information technologies

Guidelines for the use of new technologies, such as e-mail, the internet and local area networks, are evolving within the Public Service. Ministers and Ministers of State, and their exempt staff, should seek guidance on their use from the appropriate departmental officials. Ministers, Ministers of State and their staff should consider electronic recorded information as identical to physical (e.g. print, photographs, documents etc.) recorded information.

In designing information systems, Ministers and Ministers of State must provide for the proper processing, handling and storage of classified and other sensitive information. Advice and

assistance on meeting government-wide standards for physical, communications and electronic data processing security is available from the Departmental Security Officer.

10.1.2 Leaving office

Ministers, Ministers of State and their exempt staff have a responsibility to ensure that all Cabinet documents and official records are left in the custody of appropriate authorities. On leaving office, Ministers and Ministers of State must use the secure storage facilities and archival services offered by Library and Archives Canada for their personal and political papers. They should also take steps to remind individuals leaving their jobs of their continuing responsibilities to maintain the confidentiality of the sensitive information to which they have had access, to cancel all their authorities (e.g., access authorities, keys and locks) and to return all sensitive information to the appropriate authority. The designated security official in the Minister's office should terminate employment in person, and the process should be formally documented.

10.2 Access to Information and Privacy Acts

10.2.1 Background

The *Access to Information Act* (ATIA) gives the public the right of access to information in records controlled by government institutions. A Minister's or Minister's of State office is considered separate and distinct from the government institution thus, Ministers, Ministers of State, and exempt staff are not considered to be employees or officers of the institution. This interpretation is being examined in light of a recent decision by the Federal Court of Canada. The impact of this judgment is still being assessed and the question of whether or not the ATIA applies to ministerial records has yet to be resolved. Prior to making decisions on the disclosure of any records (including expense claims of Ministers and exempt staff), Minister's and Minister's of State offices should consult with their institution's legal services unit.

The Access to Information Act is based on two principles:

- ▶ government information should be available to the public; and
- ▶ necessary exceptions should be limited and specified by law.

The *Access to Information Act* complements the *Privacy Act*.

The Privacy Act governs the use, disclosure, collection, retention and disposal of personal information and expands previous statutory protection of personal information held by a government institution. The *Privacy Act* gives individuals the right of access to information about themselves which is held by a government institution. While the offices of Ministers and Ministers of State are not considered to be part of a "government institution" for the purposes of the *Privacy Act*, the following principles should nevertheless govern those offices:

1. Personal information should only be used or disclosed for a purpose consistent with the purpose for which it was obtained, unless the individual concerned consents to the new use or disclosure or the disclosure is required by law;
2. Access to personal information should be strictly limited to individuals who have a legitimate need to know;
3. Appropriate security safeguards shall be put into place and maintained to protect personal information from unauthorized disclosure; and
4. Personal information that is no longer needed should be disposed of unless its retention is required by law.

Records relating to Ministers, Ministers of State and exempt staff that are located in an institution may contain personal information that must be protected under the *Access to Information Act* and the *Privacy Act*. Such records should not be disclosed unless in accordance with these *Acts*.

Expense Claim Records about Ministers and Exempt Staff

On December 12, 2003, the government released *Governing Responsibly: A Guide for Ministers and Ministers of State* and *Guidelines for Ministers' Offices-Administrative Practices*, which stipulate that all travel and hospitality expenses for Ministers, Ministers of State, Parliamentary Secretaries, and their exempt staff will be provided on institutional web-sites (refer to section VI.5 of *Governing Responsibly: A Guide for Ministers and Ministers of State* at http://www.pco-bcp.gc.ca/default.asp?Language=E&Page=Publications&doc=guidemin/guidemin_toc_e.htm).

The document provides direction to institutions to help ensure that expense information is collected and presented consistently across government and in a manner that promotes transparency and facilitates public access.

Beginning on March 31, 2004, Ministers' and Ministers' of State offices are required to disclose publicly, through departmental web-sites, hospitality and travel expenses. Reports will cover a 90-day period, and Ministers, Ministers of State and their offices must report within 30 days of the end of the period being reported. This policy will also apply to Parliamentary Secretaries. A guidance document for posting the information on an institution's web-site can be found at:

http://publiservice.tbs-sct.gc.ca/dthe-dfva/guidance_e.asp.

Other records about expense claims of Ministers, Ministers of State, and exempt staff may contain personal information that must be protected under the *Access to Information Act*, unless consent to disclose is received from the individual(s). In view of court precedence that support this position, TBS issued an Implementation Report No. 78 dated March 30, 2001

(http://www.tbs-sct.gc.ca/gos-sog/impl-rep/impl-rep2001/Imp.Report78_e.htm) and an Information Notice No. 2002-2004 dated March 18, 2002 (http://www.tbs-sct.gc.ca/gos-sog/atip-airp/in-ai/in-ai2002/2002-04_e.asp), to provide guidance concerning this matter. As well, in March 2002, the Secretary of the Treasury Board of Canada Secretariat wrote concerning this matter to his counterparts at all institutions subject to the *Access to Information Act* (Appendix H). All three documents outline the government's position on records relating to Ministers, Ministers of State, and exempt staff, inform institutions that records relating to expense claims of Ministers, Ministers of State, and their exempt staff may contain personal information and that other information might require protection under another exemption provision, and recommend that institutions should take reasonable steps to seek consent for the disclosure of such records directly from the individual about whom they relate.

Canada Evidence Act

The amendments to the *Canada Evidence Act*, known as Specified Public Interest rules, apply to the disclosure of records in instances where a court of law seeks from the government information that is relevant to a case.

10.2.2 Monitoring disclosure

Decisions on disclosing government information under the *Access to Information Act* and the *Privacy Act* can be reviewed independently of the government. Depending upon the applicable legislation, either the Information Commissioner or the Privacy Commissioner conducts the first level of review. The Federal Court, Trial Division, conducts the next level of review and cases can be brought before Federal Court of Appeal, and ultimately, the Supreme Court.

Within a department or an agency subject to the legislation, a designated departmental co-ordinator administers one of, or both Acts. This officer receives requests from the public, advises the Minister or the Minister of State and departmental officials on what should and should not be released, and ensures that a response is prepared. The co-ordinator must also ensure that personal information is protected, as required by the *Privacy Act*. In addition, departmental legal services provide legal expertise on access and privacy matters.

Both Acts specifically recognise the rights of access of individuals with sensory disabilities.

The following suggestions are designed to help Ministers and Ministers of State meet the requirements of this legislation:

- ▶ assign a single senior contact point within the Minister's or, Minister's of State office who is knowledgeable about the Acts and their impact on departmental operations, and who can deal directly with the departmental co-ordinator on ministerial records;

- ▶ keep institutional records segregated from personal and political records, and put in place the conventions set out in this document, especially the accounting procedures;
- ▶ review delegation orders under the Acts to ensure that the specific powers, duties and functions are set out and delegated to the appropriate level;
- ▶ ensure that appropriate reporting on the nature and progress of access requests is in place in the department ; and
- ▶ support sound departmental information management practices.

10.2.3 Cabinet confidences

The *Access to Information Act* and the *Privacy Act* do not apply to records that fall under the category of Confidences of the Queen's Privy Council for Canada. Confidences of the Queen's Privy Council for Canada in general are excluded for 20 years, while discussion papers are excluded for up to 4 years. When an access request involves Cabinet confidences, Ministers and Ministers of State must consult the Privy Council Office before responding. The Deputy Minister or Access to Information Co-ordinator in each department can arrange this consultation.

Appendix A – Exempt staff position structure

Chief of Staff (EX-4)

- ▶ is the most senior political advisor to the Minister;
- ▶ is responsible for the overall management of the Minister's office, including managing the office budget and staff;
- ▶ is responsible for developing and implementing strategic plans in order to assist in delivering the Department's and Minister's mandate;
- ▶ is responsible, on behalf of the Minister, for liaising with Senior Departmental Officials in order to ensure a positive working relationship between the Minister and the public service;
- ▶ must ensure that the Minister is properly briefed and advised on all issues that relate to the Government's mandate and the Department's objectives;
- ▶ must liaise, on behalf of the Minister, with the Prime Minister's Office and other Ministers' Chiefs of Staff in order to address government-wide issues.

Senior Policy Advisor (EX-2)

- ▶ is responsible, in collaboration with the Department, for overseeing policy development on behalf of the Minister;
- ▶ is also responsible for advising and briefing the Minister on all relevant policy issues;
- ▶ needs to work closely with the Prime Minister's Office and other Ministers' offices in order to coordinate the development of policies and programs within the Government;
- ▶ must ensure that Policy development within the Minister's responsibilities are consistent with the broad policy goals of the Government, as laid out in key documents such as the Speech from the Throne and the Budget;
- ▶ should work closely with the Department to ensure that policies and policy development are consistent with the Minister's objectives and the Government's mandate; and
- ▶ should liaise with key stakeholders in order to inform and / or consult on important policy initiatives within the Minister's purview.

Director of Communications (EX-2)

- ▶ is responsible for providing strategic planning and communication advice to the Minister;
- ▶ is also responsible for leading comprehensive communication plans on behalf of the Minister;
- ▶ must consult regularly with the Prime Minister's Office in order to better coordinate government-wide communications;
- ▶ should oversee, and coordinate with the Department, the development of communications initiatives to ensure that they are consistent with the Minister's objectives and the Government's mandate;
- ▶ should establish and maintain a professional relationship with the media; and

Director of Parliamentary Affairs (EX-2)

- ▶ is the leading official spokesperson for the Minister. At the behest of the Director of Communications, the role of spokesperson to the Minister may be assigned to the Special Assistant – Communications.
- ▶ is responsible for advising and briefing the Minister on all legislative issues;
- ▶ is responsible, on behalf of the Minister, for overseeing all phase of the legislative approval process from the development of legislation within the Department to Royal Assent;
- ▶ is the point person within the Minister's office for implementing the Government's Parliamentary Reform initiative, which includes consulting Committee members on proposed legislation;
- ▶ is responsible for liaising with caucus, and the office of the Minister's Parliamentary Secretary to discuss the Department's legislative agenda;
- ▶ must liaise with the Prime Minister's Office, other Minister's offices and caucus members to ensure coordination of government-wide legislative issues; and
- ▶ must work closely with the Senior Policy Advisor to ensure consistency between policy and legislative initiatives.

Policy Advisor (AS-8)

- ▶ is responsible, working under direction of the Senior Policy Advisor and in collaboration with the Department, for policy reviews on specific issues;
- ▶ is also responsible for advising and briefing the Minister on relevant policy issues;
- ▶ needs to work closely with the Prime Minister's Office and other Ministers' offices in order to coordinate the development of policies and programs within the Government;
- ▶ must ensure that Policy development within the Minister's responsibilities are consistent with the broad policy goals of the Government, as laid out in key documents such as the Speech from the Throne and the Budget;
- ▶ should work closely with the Department to ensure that policies and policy development are consistent with the Minister's objectives and the Government's mandate; and
- ▶ should liaise with key stakeholders in order to inform and / or consult on important policy initiatives within the Minister's purview.

Senior Special Assistant (AS-7)

- ▶ Provides political advice and support on particular policy issues, communications, and parliamentary affairs at a greater level of complexity and responsibility than Special Assistant.
- ▶ Provides political advice and assistance in relation to regional responsibilities.

**Special Assistant,
Communications (AS-5)**

- ▶ is responsible for providing communications support to the Minister and Director of Communications;
- ▶ is responsible for overseeing the timely development of Communications products by the Department, such as Press Releases and Speeches;
- ▶ must consult, in collaboration with the Director of Communications, with other Minister's offices in order to better coordinate government-wide communications;
- ▶ should establish and maintain a positive relationship with the media; and
- ▶ the Special Assistant – Communications may report to the Director of Communications.

**Special Assistant,
Parliamentary Affairs (AS-5)**

- ▶ will provide general support to the Minister and the Director of Parliamentary Affairs;
- ▶ is responsible for briefing and preparing the Minister for Question Period;
- ▶ will assist the Director of Parliamentary Affairs in implementing the Government's Parliamentary Reform initiative;
- ▶ will liaise with caucus, and the office of the Minister's Parliamentary Secretary to discuss the Department's legislative agenda;
- ▶ will liaise, in collaboration with the Director of Parliamentary Affairs with the other Minister's offices and caucus members to ensure coordination of government-wide legislative issues; and
- ▶ The Special Assistant – Parliamentary Affairs may report to the Director of Parliamentary Affairs.

**Special Assistant,
Regional Affairs/Regional Desk
(AS-5)**

- ▶ is responsible for providing political advice and support to the Minister for an assigned specific province or region of the country;
- ▶ will liaise extensively with caucus members within their province/region of responsibility in order to advise and consult them on Departmental policies and programs;
- ▶ is responsible for liaising with stakeholders within their province/region of responsibility to ensure a thorough understanding of Departmental policies and programs;
- ▶ is responsible for all logistical, travel and advance operations when the Minister travels in their province/region of responsibility;
- ▶ under the guidance of the Senior Policy Advisor, may be required to manage policy files, especially files with a provincial/regional focus.

Parliamentary Secretary's Assistant (AS-5)

- ▶ is responsible for advising and briefing the Parliamentary Secretary on all legislative issues;
- ▶ is responsible, on behalf of the Parliamentary Secretary, for working closely with the Minister's office on all phases of the legislative approval process from the development of legislation within the Department to Royal Assent;
- ▶ is the point person within the Parliamentary Secretary's office for ensuring adherence to the Government's Parliamentary Reform initiative, which includes consulting Committee members on proposed legislation;
- ▶ is responsible for liaising with caucus and the office of the Minister to discuss the Department's legislative agenda.

Regional Affairs Director (EX-1)

- ▶ Senior Ministerial staff in a Minister's Regional Office assisting the Regional Minister with role of senior government spokesperson for the region;
- ▶ is responsible, in collaboration with regional offices of federal departments, for overseeing policy integration on behalf of the Minister;
- ▶ is also responsible for advising and briefing the Minister on all relevant regional issues;
- ▶ works closely with other Ministers and MP's in region in order to assist in the coordination of policies and programs within the Region;
- ▶ is responsible for briefing and preparing the Minister on Regional issues.

Regional Communications Advisor (IS-5)

- ▶ Senior communications staff in Minister's Regional Office assisting the Regional Minister with role of senior government spokesperson for the region;
- ▶ is also responsible for environmental scans and advising and briefing the Minister all relevant regional concerns and threats;
- ▶ works closely with other Ministers and MP's in region in order to assist in the coordination of messaging within the region;
- ▶ is responsible for preparing communique's, press releases, and communication strategies for the Minister on regional issues

Appendix B – Current provisions – salaries for exempt staff

Salaries:

Title	Maximum Permissible Salary (\$) Effective April 1, 2005	Maximum Permissible Salary Effective June 21, 2005
Exempt staff in a Minister's office		
Chief of Staff (EX-04)	up to 155,600	no change
Senior Policy Advisor (EX-2)	up to 121,000	no change
Director of Communications (EX-2)	up to 121,000	no change
Director of Parliamentary Affairs (EX-2)	up to 121,000	no change
Policy Advisor (AS-8)	up to 87,370	up to 93,767
Senior Special Assistant (AS-7)	up to 82,196	up to 88,215
Special Assistant, Communications (AS-5)	up to 66,287	up to 71,140
Special Assistant, Parliamentary Affairs (AS-5)	up to 66,287	up to 71,140
Special Assistant, Regional Desk (AS-5)	up to 66,287	up to 71,140
Exempt staff in a Minister's of State office		
Chief of Staff (EX-2)	up to 121,000	no change
Senior Special Assistant (AS-7)	up to 82,196	up to 88,215
Special Assistant (AS-5)	up to 66,287	up to 71,140
Support Staff (CR-5)	up to 43,132	up to 46,290
Exempt staff – Minister's Regional Office		
Regional Affairs Director (EX-1)	up to 108,000	no change
Regional Communications Advisor (IS-5)	up to 73,675	up to 79,069
Special Assistant, Regional Affairs (AS-5)	up to 66,287	up to 71,140
Exempt staff – Ministers with Parliamentary Secretaries		
Parliamentary Secretary's Assistant (AS-5)	up to 66,287	up to 71,140

See Exempt Staff Position Structure, Appendix A.

Salary range reference for **exempt staff** PA group equivalents

Level	Salary range \$					Effective date
CR-5	42,757	43,932	45,116	46,290		June 21, 2005
AS-1	42,246	43,853	45,518	47,249		June 21, 2005
AS-2	47,075	48,862	50,721			June 21, 2005
AS-3	50,457	52,375	54,365			June 21, 2005
AS-4	55,118	57,212	59,558			June 21, 2005
AS-5	65,801	68,302	71,140			June 21, 2005
AS-6	73,294	76,079	79,069			June 21, 2005
AS-7	77,151	80,085	83,126	85,622	88,215	June 21, 2005
AS-8	79,662	to	93,767			June 21, 2005
IS-5	73,294	76,079	79,069			June 21, 2005

Appendix C – Budgets and staff complements for Ministers and Ministers of State

C.1 Exempt staff

A.	Ministers	
	Budget for annual salaries	\$875,000
B.	Ministers of State	
	Budget for annual salaries	\$322,000
C.	Ministers with Parliamentary Secretaries	
	Additional budget for annual salaries (per Parliamentary Secretary)	\$71,200

Departmental staff

A.	Ministers	
	Budget for annual salaries	\$511,000
B.	Ministers of State	
	Budget for annual salaries	\$203,000

Operating Budgets

A.	Ministers	
	Annual operating budget	\$505,000
B.	Ministers of State	
	Annual operating budget	\$200,000
C.	Ministers with Parliamentary Secretaries	
	operating budget for additional overhead costs (per Parliamentary Secretary)	\$10,000

Student Budget

A.	Ministers	
	Budget for annual salaries	\$29,000

C.2 Description of budgets

A. Exempt staff salary budgets

Only direct personnel costs, such as the following, can be charged to the exempt staff salary budget:

- (a) salaries (includes pay while on leave);
- (b) vacation pay for unused vacation leave on termination of employment or paid out at the end of the fiscal year; and
- (c) salary for the 30 days' employment to which persons are entitled when a minister ceases to be a minister.

B. Ministers' and Ministers' of State operating budgets

The Minister's or Minister's of State operating budget covers all operating expenditures related to the conduct of portfolio or other official government business, whether incurred by exempt staff or departmental staff in the Minister's office or exempt staff in the Minister's of State office.

Expenditures include:

- (a) gifts, travel, hospitality and other services;
- (b) conference and training costs for exempt staff;
- (c) relocation of exempt staff (on appointment only);
- (d) office furniture and furnishings for Ministers, Ministers of State and their Private Secretaries that are over and above normal departmental standards;
- (e) fees for professional outplacement services;
- (f) cost of professional and temporary help services; and
- (g) all other expenses.

C. Departmental staff salaries budget

Salaries including overtime, equalisation pay and bilingual bonuses for departmental staff in the Minister's and Minister's of State office will be charged to the department's salary budget.

D. Other costs related to exempt staff personnel

Other costs related to exempt staff personnel include maternity leave payments (Supplemental Employment Benefit), severance pay will be funded centrally, as they are for Public Service employees.

C.3 Total budgets**A. Ministers' offices**

	\$
Budget for exempt staff salaries	875,000
Operating budget	505,000
Budget for departmental staff salaries	511,000
Students	29,000
Total	1,920,000

NOTE: Ministers may transfer up to \$100,000 from the budget for exempt staff salaries to the operating budget or vice versa (see Part 2 Financial Management, section 4.2 Transferring Funds).

B. Ministers' of State offices

	\$
Budget for exempt staff salaries	322,000
Operating budget	200,000
Budget for departmental staff salaries	203,000
Total	725,000

NOTE: Ministers of State may transfer up to \$50,000 from the budget for exempt staff salaries to the operating budget or vice versa (see Part 2 Financial Management, section 4.2 Transferring funds).

Appendix D – Department of National Defence guidelines for the use of government administrative aircraft

D.1 Description of Administrative Flight Services

The Department of National Defence (DND) operates an Administrative Flight Service (AFS) for members of the Royal Family, the Governor General, the Prime Minister, former Prime Ministers travelling for purposes related to their former office, Cabinet Ministers, foreign dignitaries visiting Canada, parliamentary committees or delegations on official business and, when authorized by a Minister, Ministers of State and senior federal officers on government business. The service consists of one 12 passenger Challenger aircraft and three 9 passenger Challenger aircraft and is capable of providing air transportation on a national and on a limited international basis.

The Administrative Flight Service will operate throughout the year seven days a week, 24 hours a day. The Administrative Flight Service will operate from 412 Squadron of the Department of National Defence, which is located at the Shell Aerocentre adjacent to the Ottawa Airport.

Flight Coordination Centre

A Flight Coordination Centre (FCC) at 412 Squadron in Ottawa provides a central coordination and scheduling service. The telephone number of this Centre is (613) 990-5085.

D.2 Guidelines for Use

Government administrative aircraft are to be used only for government business and under the following circumstances:

- ▶ when the flight is being made to a point where there is no commercial air service; when no space is available on a commercial air service; or when, because of difficulties in routings or timetables, substantial savings of essential time can be made by using administrative aircraft in place of commercial services;
- ▶ when sudden changes in plans require emergency air transportation and no commercial air service is available; and
- ▶ when official parties of some size need to travel together and significant advantage can be gained by using a government aircraft.

D.3 Approving Authority

The Minister of National Defence is the sole approving authority for flights conducted under the provisions of these guidelines.

D.4 Charges

Charges are not levied for use of Challenger aircraft of the Administrative Flight Service (AFS) or for special flights, those which carry members of the Royal Family, the Governor General, the Prime Minister or former Prime Ministers travelling for purposes relating to their former office.

Charges are levied for flights using other types of DND aircraft (such as Airbus, etc) when a flight is arranged by the Governor General, the Prime Minister, the Speaker of the House of Commons or the Senate, or involving a Minister of the Crown, members of parliamentary committees or delegations on official business, foreign heads of state, visiting dignitaries, and senior officials travelling on government business.

The charges levied will be incremental costs of the flight for the particular aircraft type used, as determined by DND.

D.5 Booking Procedures

The office of the Minister requesting the flight should telephone the FCC at 990-5085 at the earliest opportunity to give a preliminary indication of the requirement, including a tentative itinerary and the number of passengers to be carried.

The Minister requesting the flight must also forward a formal written request for the flight to the Minister of National Defence (MND), except in cases of emergency, the written request should reach the MND at least 48 hours before the time of departure.

The written request must include:

- ▶ an itinerary of the trip, which indicates all points of departure and arrival;
- ▶ the reason why the use of government-owned aircraft is requested;
- ▶ the reason why commercial air service cannot be used;
- ▶ a complete passenger list showing departure and arrival points of passengers and their affiliation;
- ▶ the contact person (and telephone number) in the requesting Minister's office;
- ▶ in addition, the following statement must be included immediately above the signature block;

- ▶ “I (or my Minister) request(s) the use of this aircraft, fully cognizant of the guidelines for use of the AFS, consistent with the government’s commitment to financial restraint, and consistent with the *Conflict of Interest and Post-Employment Code for Public Office Holders*”; and
- ▶ the signature of the Minister requesting the flight or the signature of the Minister’s Chief of Staff on behalf of the Minister.

Flight arrangements will conform to the information contained in the written request to the Office of the Minister of National Defence or as subsequently arranged by the FCC (with approval from the Office of the Minister of National Defence if there are substantial changes to the written request).

D.6 Restrictions

Requests will normally be handled on a “first come, first served” basis. Conflicting priorities and unforeseen requirements will be referred to the Minister of National Defence for resolution. The order of precedence in the Cabinet will be used to resolve conflicts. To optimize the scheduling of aircraft, restrictions on changes to previously co-ordinated itineraries are necessary. Operational constraints, such as crew duty time and the availability of airport services, could disrupt future schedules and have an impact on the services offered or promised to other Ministers.

Additionally, stops not contained in the original itinerary should not be planned at intermediate points to pick-up or discharge passengers. If such stops or itinerary changes are necessary, they must be co-ordinated with and agreed to by the FCC (who will in turn contact the Office of the Minister of National Defence for approval).

The FCC or the Office of the Minister of National Defence will inform Ministers requesting air transportation of the availability of aircraft proceeding on compatible flight schedules. Ministers should make every effort to make joint use of aircraft in the interests of efficient use of government resources; however, no more than eight Ministers of the Crown are to travel on the same aircraft at the same time.

D.7 Reporting

The Department of National Defence will make information on the use of administrative aircraft available to the public in a monthly report that provides:

- ▶ the name of the Minister requesting the aircraft;
- ▶ the date(s) of trips and the location(s) visited;
- ▶ the name of the passengers;
- ▶ the purpose of the trip(s); and

- ▶ the number of hours flown.

Enquiries regarding any particular trip will be referred to the office of the Minister requesting the trip.

Appendix E – Information on the Ministers’ Staff Priority – The Public Service Commission of Canada

Introduction

The *Public Service Employment Act* (PSEA) governs appointments to positions in the Public Service, promoting and protecting values associated with the principle of appointments based on merit. Among its provisions are exception clauses that provide an entitlement to a priority in appointment ahead of others for certain classes of persons who meet specific conditions. In that context, section 39 of the Act provides a priority to certain individuals hired directly by a Minister (“exempt staff”).

This document provides information about the nature of the Ministers’ exempt staff priority. It also explains how the entitlement is administered, including information about the procedure for seeking a determination by the Public Service Commission (PSC) of whether an individual is entitled to a priority in appointment. This information will be of interest to persons employed in the office of a Minister, persons considering such employment, and officials in Ministers’ and departmental human resource offices.

Application:

The priority applies to certain staff employed in a Minister’s office for activities related to the conduct of the Minister’s portfolio and other official government business. Entitlements for Ministers’ exempt staff apply equally to Ministers’ of State exempt staff. The priority also applies to persons employed in the Office of the Leader of the Opposition in the House of Commons, the Leader of the Government in the Senate and the Leader of the Opposition in the Senate [Ref. s. 39(6), PSEA].

The priority does NOT apply to persons hired by Ministers in their capacity as Members of Parliament for work either in their House of Commons or constituency offices, nor to employees of Departments and Agencies working as a part of the Minister’s “departmental complement”.

The term “exempt staff” is taken from the Treasury Board Secretariat’s publication “Guidelines for Ministers’ Offices – Administrative Practices”. It refers to the fact that the *PSEA* provides that “A Minister may appoint his Executive Assistant and other persons required in his office” and that their appointment is “exempt” from the Act. Particular funding arrangements are in place for “exempt staff” positions as distinct from funding for the staff of a Minister’s constituency or House of Commons office. The TBS’s Guidelines include an Exempt Staff Position Structure which outlines the titles, types and content of positions which commonly form the staff of a Minister’s office.

The Entitlement (section 39, PSEA):

Persons with a Ministers' exempt staff priority are entitled to be appointed without competition to any position in the Public Service for which they are qualified, in priority to all other persons except for surplus employees of the Public Service being placed within their own department as per s. 29(1.1) of the Act and except for employees who are entitled to a Leave of Absence priority under section 30 of the Act. The entitlement is for one year from the date the person ceases to be employed in the office of a Minister but ceases on appointment to the Public Service. Priority appointments are not subject to the appeal provisions of section 21 of the Act, but recourse is available through the complaint provisions related to sections 6 and 7.1 of the Act.

Criteria:

To be entitled to the priority the person must have ceased to be employed in a Minister's office. In addition, persons employed in a Minister's office are entitled to a priority appointment:

- ▶ if they were employees of the Public Service immediately before becoming employed in the Minister's office [Ref. section 39(3)(a)].
- ▶ "employee" means a person appointed to a position in the Public Service pursuant to the PSEA, for either an indeterminate period or for a specified period (i.e. "term"), but does not refer to persons appointed as "casuals" under section 21.2 of the PSEA.
- ▶ the person's employment in the Minister's office may have been in any capacity and for any period.

or

- ▶ if they qualified for appointment to the Public Service under the Act while employed in the office of a Minister [Ref. s. 39(3)(b)].
- ▶ "qualified for appointment" means that the person was found qualified in an open competition pursuant to the PSEA and was placed on an eligibility list.
- ▶ the person's employment in the Minister's office may have been in any capacity and for any period.

or

- ▶ if they had been employed as an Executive Assistant, Special Assistant or Private Secretary to a Minister, or in any of those capacities successively, for a continuous period of at least three years [Ref. s. 39(4)].
- ▶ "three years" means three consecutive years.

- ▶ “three years” includes time employed in the offices of different Ministers as long as there was no break in employment.
- ▶ there must have been a continuous employment relationship and the duties must have actually been performed for three years, or more. So, for example, periods of assignment elsewhere or leaves of absence (including leave to stand for office or to work on election campaigns) are not counted toward the three years; however, they do not sever the employment relationship and do not result in having to start the time count over again when the leave finishes.
- ▶ the terms “executive assistant”, “special assistant”, and “private secretary” represent senior positions and NOT support staff; the incumbents assist the Minister in his or her role as a Minister, not as a parliamentarian; typically they provide political or communications advice or are the senior officers responsible for administrative services in a Minister’s office (such as Special Assistant for Operations or Administration).
- ▶ these persons need not report directly to the Minister.
- ▶ the generic positions mentioned in the Act can also be referred to under different titles for practical purposes (e.g., Legislative Assistant, Communications Advisor etc). For a list of alternative titles, see Exempt Staff Position Structure for Ministers’ exempt staff.

The Priority Period: Start, Duration, End

The entitlement starts on the date the person ceases to be employed in the office of a Minister and lasts for one year from that date. The entitlement ceases at the end of the period or when the person is appointed to a position in the Public Service for either an indeterminate period or for a specified period (i.e., a “term”), whichever occurs first.

The start date and duration are set by the Act and cannot be altered (for example, to accommodate persons who register late with the PSC for referral or who obtain employment with another Minister subsequent to the onset of the entitlement and who might like to “save” the entitlement period for another time).

A person may “cease to be employed in a Minister’s office” for any reason, including their own resignation. It is not necessary that the Minister has ceased to hold the title of Minister. Where a Minister has ceased to be a Minister, and if the person employed in the Minister’s office has not resigned, that person ceases to be employed in the office of the Minister 30 days after the date that the Minister ceased to be a Minister, as per section 39(2) of the PSEA.

Roles Of The Public Service Commission (PSC) And Departments

The PSC determines whether applicants meet the criteria for the priority, on a case by case basis. It also maintains a priority referral system to help ensure that Ministers' Staff and other priority persons are considered for appropriate vacancies by departments. Departments make the final assessments and appointments as per their delegated staffing authority, except for positions in the Executive Category (EX).

Appointments to EX positions are made by the Commission itself as suitable positions become available, following the application of the same assessment process as applies to all candidates for EX positions. Such appointments represent a small minority of appointments of persons pursuant to the Ministers' Staff priority.

The PSC views section 39 of the PSEA as an exception to the procedures and principles that are intended by the Act as the means of preserving the merit principle in employing persons in the Public Service. Therefore, in order to foster and protect these procedures and principles, and ensure that the basic intentions of Parliament are carried out, the section is interpreted restrictively and applied in such a manner as to avoid broadening the exception in its application to specific situations.

Procedures: Determination Of Priority Entitlement

Requests to the PSC for a determination of entitlement are initiated by the person concerned or, often, by officials in the Minister's office on their behalf. In any event, the requests are normally sent to the PSC by the Head of Human Resources of the department related to the Minister, or by other senior human resource personnel who provide advice and services to the office of the Minister. This arrangement enhances administrative continuity.

A form "Request Form for Determination of Entitlement – Ministers' Staff Priority" (http://www.psc-cfp.gc.ca/staf_dot/priority-priorite/form_e.pdf) is appended to this Guide. The Request Form specifies the information that is required by the PSC.

The applicant signs the request, as does the Minister's Executive Assistant. However, when the applicant is the Minister's Executive Assistant, we ask that the Minister sign the request.

The signatories attest that the information submitted is accurate and complete and that the person's employment meets specified conditions regarding the nature, type and duration of the person's employment (including job titles, responsibilities, periods of employment, leaves of absence and assignments outside a Minister's office). If circumstances make it impractical to secure the

signatures of the Chief of Staff or of the Minister, then attestations from knowledgeable senior departmental Human Resources personnel are acceptable.

The signed form is sent to the responsible departmental human resource person for submission to the PSC.

If applicants require a confidential determination by the PSC (without the involvement of senior staff in the Minister's office), the PSC would accept attestations by the departmental head of human resources or other senior departmental human resource staff responsible for servicing a Minister's office. If signatures are not available, the PSC could provide only a preliminary determination subject to later certification of the facts by the appropriate officials.

Requests are sent to:

Director General,
Delegation Directorate, Policy Branch,
Public Service Commission,
18th Floor, West Tower, 300 Laurier Avenue West,
Ottawa, Ontario, K1A 0M7.

The PSC provides its determination in writing to both the requester and the person concerned. Where the applicant is found to have met the criteria, the PSC informs that person of the specific procedures for exercising the entitlement when and if they are ready.

Procedures: Initiating Registration In The Priority System

Persons who have been informed that they are entitled to the Ministers' Staff Priority are responsible to contact the appropriate PSC office to initiate the administration of their entitlement, as per the letter they receive from the PSC. They should do this as soon as possible after having ceased to be employed in the office of a Minister. They will be registered in a national inventory of persons who have a priority for appointment under the *Public Service Employment Act or Regulations*.

Interest in executive level positions:

- ▶ Most persons will be registered for referral to positions below the executive level. Individuals who possess qualifications and interests that might make them suitable for appointment in the Executive Category are invited to apply for an assessment of readiness for appointment to positions in that occupational category. The Commission applies the same assessment tools as are applied to all other candidates for EX positions. If the candidate is found to be "EX-ready"

he or she will be placed on a waiting list and appointed to positions by the Commission when and if suitable vacancies arise during the priority period.

- ▶ In order to avoid any conflict of interest or appearance of conflict, the following selection and assessment tools are applied in each case:
 - an assessment by the Personnel Psychology Centre of the PSC;
 - an interview with a board constituted to assess competencies and work experience;
 - a structured reference check; and
 - an official languages proficiency test for candidates interested in positions in bilingual regions.

Procedures: Job Matching - Links To Jobs Being Staffed

When departments wish to staff positions they notify the PSC. For most positions (all but those classified as executive), the appropriate PSC regional office refers any persons from the priority inventory who appear to have the qualifications required. The departments make further assessments and inform the PSC of the results:

- ▶ If a priority person is found qualified then that person is appointed. However, if more than one priority person is qualified an appointment is offered to the most suitable, in the order of priority specified in the Act and Regulations (that is: first, a departments' own surplus employees, then returnees from Leave of Absence, then Ministers' Staff, and then others). If no priority person is available or qualified, the position is staffed by other means.

For positions classified in the Executive Category, the Executive Programs Directorate reviews its inventory of priority persons who are EX-ready and recommend to the Commission, following consultation with the department involved, the appointment of any such persons who appear to be suitable for the position. If accepted, the Commission would appoint the person.

In addition to participating in the PSC's priority inventory and being referred, persons with a Ministers' Staff priority, like all priority persons, may also apply directly on their own to be considered for any job they see advertised or are otherwise aware of being staffed. If they do, they must indicate that they have a priority entitlement. Departmental managers will verify the entitlement with the PSC. Departments are obligated to appoint the priority person in advance of others, if they are qualified to perform the duties, just as they would if the person had been referred by the PSC.

References:

1. *Public Service Employment Act*, section 39 “Ministers’ Staff” - (available on the PSC web-site: http://www.psc-cfp.gc.ca/staf_dot/psea-lefp/index_e.htm)
2. Public Service Commission (PSC) document: Staffing Manual, Chapter 5 “Priorities” (http://www.psc-cfp.gc.ca/staf_dot/pol-guid/chap_05/index_e.htm) (deals with priority entitlements in general)
3. Treasury Board Secretariat of Canada: “Administrative Practices: Guidelines for Ministers’ Offices” which is available at internet address http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/mg-ldm/gfmo_e.asp
4. One may also access the PSC’s Staffing Manual from the Human Resources page of PubliService (http://publiservice.gc.ca/hr/hr_e.html) under the heading of Staffing Reference Material (only available to federal government subscribers to PubliService).

Questions:

If you have questions, please contact the Priority Administration section of the Public Service Commission at (613) 995-4636.

Appendix F – Conflict of interest and post-employment code for Public Office Holders – Designations of Ministerial Staff and Appointees

1. Ministerial exempt staff

The following persons are subject to the Principles outlined in Part I of the *Conflict of Interest and Post-Employment Code for Public Office Holders (2003)*:

- ▶ all persons who work on a voluntarily basis for a Minister of the Crown or a Minister of State;
- ▶ all persons on the paid staff of a Minister of the Crown or a Minister of State, full time or part time, on salary or on contract, regardless of the budget source from which they are being remunerated (House of Commons, constituency, Minister's regional office or exempt staff budget), other than public servants.

The following persons are subject to the conflict of interest compliance measures outlined in Part II of the Code:

- ▶ all persons who work on a voluntarily basis for a Minister of the Crown or a Minister of State, 15 hours per week or more, on average;
- ▶ any contractor or a part-time staff member of a Minister of the Crown or a Minister of State who works 15 hours per week or more, on average; and
- ▶ all members of the full time staff of a Minister of the Crown or a Minister of State, other than public servants.

The Deputy Head is responsible for ensuring that departmental employees (public servants) assigned to a Minister's office comply with the provisions of the *Values and Ethics Code for the Public Service*.

Those individuals who are subject to the provisions of Part II could be subject to the post-employment compliance measures outlined in Part III of the Code, if they are so designated by their Minister of the Crown or Minister of State.

However, staff members occupying the following positions **must be subject to Part III of the Code**:

- ▶ Chief of Staff for Ministers and Ministers of State;
- ▶ Senior Policy Advisor;
- ▶ Director of Communications (e.g., Head or Manager of Communications, Spokesperson, Press Secretary);

- ▶ Director of Parliamentary Affairs;
- ▶ Policy Advisor, Senior Special Assistant, Legislative Assistant, Special Assistant and other Assistants working with Cabinet documents or sensitive policy files.

Other staff members may be designated by the Minister as being subject to Part III of the Code in consideration of certain factors. Generally speaking, these would include senior staff members or other staff members whose duties require involvement with sensitive policy files such as those involving Cabinet confidences. Other factors to consider are the staff member's authority, influence, visibility, and salary level (e.g., EX-01 level and above).

2. Students

All students employed in Ministers' or Ministers' of State Offices must comply with the Principles set out in Part I of the Code. The Minister's Office should ensure that the students receive a copy of these Principles when their employment begins.

Normally, students employed in administrative support positions need not be subject to the detailed compliance requirements of Parts II and III of the Code. Therefore, no detailed confidential report on assets, liabilities, activities and benefits is required of them.

Students hired in positions equivalent to that of a Special Assistant, i.e. who work on sensitive matters or have access to Cabinet documents, would be subject to the same requirements as full time exempt staff members. Given the short duration of their employment, the Ethics Commissioner should be informed at once of such individuals, in order to ensure that the necessary compliance arrangements are completed in good time.

3. Ministerial Appointees

Other individuals may be appointed under the authority of a Minister (such as members of some advisory panels). These persons are referred to as "ministerial appointees" in the Code. Part-time ministerial appointees are subject to the Principles in Part I of the Code and any measures established by their organizations. It is the responsibility of the Minister of the Crown or Minister of State concerned to ensure adherence to the Principles. For full-time ministerial appointees who have been designated by the Minister as public office holders, the Ethics Commissioner is responsible for administering the Code. Ministers of the Crown or a Ministers of State are to notify the Ethics Commissioner when designating such full-time appointments as public office holders, indicating whether the post-employment measures in Part III of the Code apply to the individual.

Appendix G – Letter from Minister of Finance to cabinet ministers, December 1963

Ottawa, December 5, 1963.

LETTERS TO CABINET MINISTERS

Dear Mr.

The Cabinet discussed at a recent meeting the manner in which Ministers should account for moneys advanced and expended for travelling on official business.

In accordance with the decisions reached as a result of our discussions, I would ask that in the future you account for moneys advanced to cover travelling expenses by submitting for each trip a statement under two headings:

- (a) transportation expenses (if any); and
- (b) other expenses.

The statement should also include the period covered by the trip and the places visited.

The statement, which should be sent to your Chief Treasury Officer, should be certified by you as follows:

“I certify that the foregoing expenditures have been incurred by me on official business.”

(signed).....

The difference between the amount of the advance and the amount covered by your certificate should be returned to your Chief Treasury Officer in the form of cash or your personal cheque.

Yours sincerely,

(Sgd.)W. L. Gordon.

Appendix H – Letter from the Secretary of the Treasury Board with respect to Access to Information requests of ministerial expense claims

I am writing further to the announcement in Parliament on March 15, 2002, by the President of the Treasury Board with respect to the treatment of requests made under the *Access to Information Act* for records of ministerial expenses under the control of government institutions.

As you are no doubt aware, the Prime Minister asked his Ministers and their exempt staff to consent to the release of information contained in travel and hospitality expense records.

Enclosed is a copy of an Information Notice to Access to Information and Privacy (ATIP) Coordinators issued by the Treasury Board Secretariat (TBS) to clarify the government's policy on the handling of access requests for records of ministerial expenses, and to request that Coordinators seek consent for the release of information in travel and hospitality expense records. The Information Notice and the practice of disclosing such records with consent are matters that were discussed at the bi-monthly ATIP Community Meeting hosted by TBS on March 19, 2002.

Each time an access request is received for expense claim information that relates specifically to travel and hospitality claims of Ministers and their exempt staff while on government business, all Ministers and their exempt staff will be asked by their Access to Information and Privacy Coordinator to sign a consent form authorizing the disclosure of such information. This applies only to expense claim records that are under the control of the government institution, and specifically to ministerial expense certificates (a monthly summary record of expenses) and to individual claims of exempt staff. This does not include travel records held exclusively in a Minister's Office, as these are not subject to the *Access to Information Act*.

Consent means that information such as the names of the Minister along with their monthly summary record of expenses, and the names of the exempt staff members, along with their position titles, travel destinations and reasons for travel, the nature of the hospitality, and amounts will be disclosed. Personal information that does not relate to the position or function of the individual, such as home addresses, personal phone or credit card numbers would continue to be protected.

This practice will ensure that the balance between the public's right to know and an individual's right to privacy is maintained.

Yours sincerely,

Frank Claydon