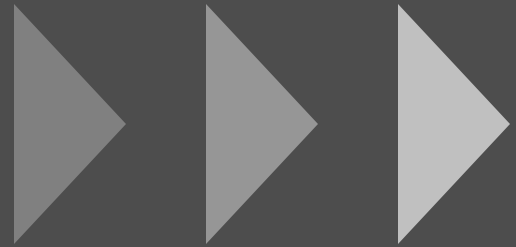




# Document Prepared by the Treasury Board of Canada Secretariat

for the Commission of Inquiry into the Sponsorship Program and  
Advertising Activities

September 2004



## **PREFACE**

This document represents the written evidence of the Treasury Board Secretariat (TBS). It was prepared through a process involving each of the panel members and their staff providing input to the document within their primary areas of responsibilities. These areas are described in the biographies of the panel members included in the section immediately following this preface.

Each member of the panel has reviewed and signed-off on the contents of this document with a focus on the aspects that represent their primary areas of responsibilities.

## **BIOGRAPHIES OF TBS PANEL**

### **Jim A.J. Judd**

Jim Judd became Secretary of the Treasury Board in May 2002. Prior to this appointment, Mr. Judd has held several senior positions within government. From 1973 to 1987, he occupied a number of positions within the Department of Foreign Affairs in Ottawa and outside Canada (including Caracas, Venezuela and Washington). Between 1987 and 1990 he was Senior Departmental Assistant in the Office of the Secretary of State for External Affairs. He was Chief of Staff to the President of the Queen's Privy Council for Canada and Minister Responsible for Constitutional Affairs from 1991 to 1992. He was Assistant Secretary to the Cabinet for Foreign and Defence Policy in the Privy Council Office from September 1992 to 1994. From September 1994, he was on Special Assignment in the Deputy Minister's Office in the Department of Foreign Affairs and International Trade until he became Assistant Deputy Minister Corporate Services there in July 1995. He was appointed G-7 Deputy and Assistant Deputy Minister, International Trade and Finance of the Department of Finance in November 1996. In February 1998, he was named Deputy Minister of National Defence.

### **Susan Cartwright**

Susan Cartwright is Assistant Secretary, Government Operations Sector, the Program Sector responsible for *inter alia* Public Works and Government Services Canada, central agencies and related bodies (TBS, Finance, Privy Council Office, the Public Service Human Resources Management Agency of Canada, the Public Service Commission, the Canada School of the Public Service), the five agents of Parliament and the institutions or Parliament themselves, Crown Corporations policy and operations, and coordination of our activities with small agencies. Ms. Cartwright joined TBS in May 2003 from the Department of Fisheries and Oceans where she held the position of Assistant Deputy Minister, Policy. She previously held a number of positions in the Department of Foreign Affairs and International Trade, including five overseas assignments and assignments in Ottawa in resource planning and management, as Senior Departmental Assistant to the

Minister for International Trade, and latterly as Director General for Western Europe. In this last position, Ms. Cartwright was responsible for the integration of program delivery in the region as well as the management of the government's physical, personnel and financial resources in Western Europe. Ms. Cartwright holds degrees from the University of Victoria and the University of Waterloo.

### **Jane Cochran**

Jane Cochran is Executive Director of the Procurement and Project Management Policy Directorate in the Management Policy and Labour Relations Sector. Ms. Cochran joined TBS in the fall of 1998 in the Management Strategies Division and moved to the Procurement Policy Division in October 1999 as Senior Director. Prior to joining TBS, Ms. Cochran was part of the federal negotiating team responsible for the Social Union Agreement at the Privy Council Office. She also worked at Industry Canada in the field of economic development with a wide cross-section of private sector corporations in the defence, electronics, IT and aerospace fields, where she focused on business financing and procurement. Ms. Cochran holds degrees from McMaster University and Carleton University.

### **Mike Joyce**

Mike Joyce is Assistant Secretary, Expenditure Operations and Reporting Sector, a group created as part of the June 2004 reorganization, that plays a lead role in planning and operationalizing the Secretariat's role in the government's expenditure management system as well as in the preparation of Estimates documents. In addition the sector is responsible for promoting results-based management and budgeting, the preparation of Canada's Performance Report and evaluation policy. Mr. Joyce's previous positions within TBS include:

- 1998-2004 – Assistant Secretary, Expenditure and Management Strategies
- 1995-1998 – Director, Estimates
- 1993 –1995 – Director, Government Operations Sector
- 1991-1992 – Exchange with the Australian Government's Department of Finance
- 1986-1991 – a number of Program Sector Director positions covering Cultural, Aboriginal and Crown corporation portfolios.

Prior to joining TBS as a program analyst in 1981, Mr. Joyce worked for the Atomic Energy Control Board on regulatory process and public consultation policy. His previous experience included various positions as a chemical process engineer, initially in the chemical fertilizer industry and subsequently in Canada's heavy water production program. As well, he spent a year doing voluntary service as a high school teacher in Anguilla.

Mr. Joyce holds a B.Sc. in Chemical Engineering from Birmingham University and an M.A. in Public Administration from Carleton University.

## **Jim Libbey**

Jim Libbey is currently Executive Director of the Strategic Systems Infrastructure Directorate in the Office of the Comptroller General (OCG). The OCG is responsible for providing a focus on financial management and accounting policy, financial systems infrastructure, as well as internal audit. The OCG also plays a role in overseeing and developing financial management and audit communities. In addition, it is currently developing an audit operations capacity for small agencies.

Mr. Libbey joined the Public Service in 1996 to lead the implementation of the Financial Information Strategy (FIS), which was completed as planned in 2001. The FIS involved implementing private sector accounting policies and modern financial systems across government. Previously he was with KPMG, Chartered Accountants and management consultants, for 25 years. For the last 15 of those years he was a Partner in the firm and provided audit, financial management and other services to public sector organizations.

Mr. Libbey is a Chartered Accountant and holds an M.A. in mathematics.

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## **PART I - INTRODUCTION**

1. The federal government is the single largest organization in Canada with annual expenditures that total over \$180 billion, with operations throughout every region of the country and in over a hundred other countries through its participation in a range of international activities (including peace-keeping) and through its missions abroad. It employs in excess of 450,000 staff in occupations that include policemen and women, sailors, soldiers, aircrew, scientists, doctors, nurses, tradespeople, as well as many others who also interact daily with the Canadian public they serve.

2. Over and above the challenges inherent in managing an organization as large as the federal government, a number of additional factors that are unique to democratic government add to the complexity of this task:

- The high standards expected of the public service include a degree of visibility that is unique to both department and agency operations, as well as to the public servants who manage and deliver their programs.
- As an institution, the government is made up hundreds of different entities (departments, agencies and Crown corporations, including the military and the RCMP). These entities serve an array of different objectives and priorities as opposed to a single objective under which their activities could be more easily unified. Furthermore, these entities feature a range of significantly different governance regimes.
- The public service must respect multiple lines of differing accountability to the various institutions that make up our form of government, as well as to the public they serve.
- The government operates with a complex framework of legislation, regulation and policy. For example, procurement is governed by sixteen statutes, three international trade agreements, a federal-provincial trade agreement, as well as regulations and policies.

3. Within this context, the Treasury Board, supported by its Secretariat, functions as the government's management board, overseeing the operations of the entire federal government. It performs this oversight role, which varies by type of institution (Crown corporations, separate employers, agents of Parliament, the military, the RCMP and line departments) from three perspectives:

- Resource allocation and accountability for the results departments and agencies achieve with these resources;
- The performance of departments and agencies in managing the resources they have been allocated – the human resources they employ, their expenditure

budgets, the physical assets they use to support and deliver their programs, and intellectual capital; and

- As principal employer of the public service.

4. Fundamental to the way in which the Treasury Board, supported by its Secretariat, performs its role is achieving an appropriate balance between central control on the one hand, and the delegation of authorities to departments on the other. The search for the right point of balance is not a new phenomenon for the Treasury Board and has existed since Confederation. Neither is it a new challenge to be addressed by external bodies appointed to examine aspects of public service operations. In more recent history the issue has been addressed directly by the Glassco Commission, the Lambert Commission and in reports of the Auditor General. The issue underpins many government initiatives and, more particularly, strategies that have been and are in the process of being implemented to improve public sector management.

## **PART II - HISTORICAL PERSPECTIVE OF TREASURY BOARD AND THE SECRETARIAT<sup>1</sup>**

### **The Early Years**

5. The day after Confederation, the Prime Minister established the Treasury Board as a committee of the Privy Council<sup>2</sup>, although it operated as a committee of Cabinet. Its purpose was to assist Ministers in the overall financial control of the federal government. For historical reasons, government finances were an essential part of the establishment of the office of the Prime Minister, and the Treasury Board exercised on the Prime Minister's behalf the latter's unifying functions of financial control. Chaired by the Minister of Finance, its main role was to prepare the government's spending estimates for review by Parliament. In performing this function, it needed to reconcile the competing demands for funding from within the government. Put simply, the Treasury Board was a mechanism that the Ministry imposed on itself for the preparation and reconciliation of estimates.<sup>3</sup>

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<sup>1</sup> For a chronology of significant milestones in the development of Treasury Board and the Secretariat see Annex A, "Chronology of the Development of Treasury Board and its Secretariat".

<sup>2</sup> The Queen's Privy Council for Canada was established under section 11 of the *British North America Act, 1867*. On the advice of the Prime Minister, the Governor General appoints new Ministers to the Queen's Privy Council before they are sworn in as Ministers. The Prime Minister of the day may choose to recommend the appointment of other persons of distinction as a special form of honour. The Queen's Privy Council for Canada thus includes not only members of the present Ministry but also former Ministers and other distinguished persons. As Professor Robert MacGregor Dawson said, "The Privy Council would...if active, be a large and politically cumbersome body...with members continually at cross-purposes with one another. It has saved itself from this embarrassment by the very simple and effective device of holding almost no meetings of the whole council."

<sup>3</sup> See Office of the Auditor General of Canada, *2004 Report of the Auditor General of Canada – Chapter 7, A Study of the Role of the Treasury Board and its Secretariat*, at paragraph 7.18 online at <http://www.oag-bvg.gc.ca/domino/reports.nsf/html/20040307ce.html> and Privy Council Office, *Responsibility in the Constitution*, page 2 of Chapter 5 online at [http://www.pco-bcp.gc.ca/default.asp?Page=Publications&Language=E&doc=constitution/ch05\\_e.htm](http://www.pco-bcp.gc.ca/default.asp?Page=Publications&Language=E&doc=constitution/ch05_e.htm)



6. The Canadian system of government is derived from the British and pre- and post- Confederation practice. The system is ministerial in character. Ministers, in their capacity as advisors of the Crown are individually and collectively responsible for most activities of government. Their individual responsibilities are mainly legal in character and result from the exercise of powers bestowed upon them by the Crown. Constitutionally, Ministers are responsible to Parliament for the exercise of their powers and this provides the foundation of responsible government. The collective responsibility of Ministers is, on the other hand, primarily conventional rather than legal, providing the stability and unity essential to the conduct of ministerial government.

7. In 1869, the Treasury Board was provided with a statutory base and remains the only committee of Cabinet rooted in legislation. Until the *Financial Administration Act* was set in place in 1951, the Treasury Board conducted all of its business subject to the formal approval of the Governor in Council, and the Cabinet continued to insist on its right to approve the estimates framed by the Treasury Board within the parameters set by the Cabinet and to hear appeals by Ministers against particular decisions of the Treasury Board.<sup>4</sup>

8. Until 1947, the Deputy Minister of Finance was also the Secretary of the Treasury Board, and it was largely his function to ensure that consolidated estimates were prepared. In the hundred years after Confederation, Treasury Board gradually evolved such that the role of the Treasury Board Ministers was strengthened, ultimately separating the Board's Secretariat from the Department of Finance and providing the Board with a chairman (the President) separate from the Minister of Finance.

9. Financial control exercised by Ministers collectively through the Treasury Board opened the way for the establishment of management and other administrative standards on a central basis. From the outset, the Minister of Finance through the Treasury Board assumed certain *de facto* powers that affected the management of individual departments. The *Finance Act* of 1869 clearly set out the powers of the Treasury Board with respect to matters of finance and expenditure, and, by implication, of management. These

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<sup>4</sup> The Governor in Council is a formal mechanism for authorizing action by the Crown as distinct from action by Ministers on behalf of the Crown. It consists of the Governor General *acting* on the advice of the Committee of the Privy Council, that has the same membership as the Cabinet. It is, however, distinct from the Cabinet, which is both informal and cannot in legal terms authorize action in the system. Put simply the Cabinet determines the policy of the government, and that policy is effected either by a Minister or by the Crown. If the latter, the Crown, in order to take action, usually must be authorized to do so by the Governor in Council. Although until 1951 the Treasury Board conducted all of its business subject to the approval of the Governor in Council, the Treasury Board was not originally constituted as a Committee of the Privy Council. The Minutes of the Council of 2 July 1867 recommended that a "Board of treasury be constituted with such powers and duties as may from time to time be assigned to it by Your Excellency in Council". Thus, at the outset, the Board had the potential to *act* rather than advise, and it was only when the Board was provided with a statutory base that it was constituted as a committee of the Privy Council, sharing the *advisory* functions of its parent body. Accordingly, from 1869 until 1951, the Board advised and the Governor in Council acted, *supra* note 3, *Responsibility in the Constitution*.

responsibilities have since been elaborated in a series of important Acts designed to improve the standards of resource management.<sup>5</sup>

10. The Treasury Board's management functions had been fulfilled somewhat haphazardly over the years prior to the formation of Prime Minister Bennett's administration in 1930. Estimates had been reconciled but not much had been done to standardize financial expenditure and accounting systems. Overspending of votes and other unauthorized expenditure were not uncommon. Parliament, more particularly the Public Accounts Committee, had shown little interest in improving the system. Prime Minister Bennett, who was also Minister of Finance, was disconcerted to discover, that owing to widely differing standards and systems of accounting, he could not determine the financial position of the government.

11. These circumstances precipitated the *Consolidated Revenue and Audit Act* of 1931, which imposed a highly centralized system for authorizing expenditure and a standardized accounting system. The Act created the subordinate position of the Comptroller of the Treasury within the Department of Finance. This officer was provided with a staff of accounting personnel stationed in each department. The Comptroller and his staff, responsible to the Minister of Finance, were responsible for authorizing each expenditure made under the authority of a particular Minister.

12. The Bennett reforms ushered in a period of highly centralized financial control that spanned the succeeding 35 years. They were occasioned by hard times and stringent economies, but they also reflected a chronic weakness in departmental financial systems due to the absence of uniform systems for expenditure and accounting. The reforms were, however, somewhat repugnant to the principles of responsibility in the system. As times improved, as government activity grew with the considerable expansion of the government's role in social policy and economic development in the post-war period, and as Ministers increasingly exercised their program authority, the appropriateness and sustainability of this centralized system was called into question.

### **The 1960s and 1970s**

13. The Glassco Royal Commission's theme of "let the managers manage" precipitated amendments to the *Financial Administration Act* in 1966 that set in place the organizational and financial relationship that currently exists between the Treasury Board and Ministers in their departments. Summarizing the developments that had occurred since 1931, the Commissioners noted:

"By divesting departments of the authority essential to the effective management of their own affairs, the system tended to weaken their sense of responsibility. Each new evidence of irresponsibility within

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<sup>5</sup> The Acts in question are the *Consolidated Revenue and Audit Act* of 1931 and the *Financial Administration Act*, enacted in 1951 and as subsequently amended.

departments seemed to confirm the wisdom of existing controls and to suggest the need for more.”<sup>6</sup>

14. The Commission argued in effect for a reassertion of ministerial authority. It proposed the separation of the Treasury Board Secretariat from the Department of Finance; placing it under the leadership of a Secretary with the rank and status of a deputy minister; the appointment of a separate Minister to preside over the Board; and the substitution of management leadership and Treasury Board prescribed standards for the control functions exercised by the Comptroller of the Treasury.<sup>7</sup> These recommendations were incorporated in the 1967 amendments of the *Financial Administration Act*, which reinforced the role of the Treasury Board in setting management standards for the public service.<sup>8</sup>

15. The system presided over by the Comptroller of the Treasury between 1931 and 1967 operated to the detriment of ministerial responsibility, with adverse consequences for the exercise of constitutional responsibility and (as evidence of this) for the flexibility and responsiveness of government. During this period the idea of accountability disappeared and was replaced by the system of controls criticized by the Glassco Royal Commission. The post-Glassco reforms initiated a trend away from a highly centralized system based on controls and a move towards the exercise of ministerial autonomy.

16. Changes in responsibilities continued through the late 1960s. In 1969, as recommended by the Glassco Commission, the position of Comptroller of the Treasury was abolished, and departments took responsibility for certifying and authorizing expenditures. The Comptroller’s office became part of the Department of Supply and Services. This function remained in PWGSC as the Receiver General of Canada.

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<sup>6</sup> *Royal Commission on Government Organization* (Ottawa, 1962) vol. i, p. 44.

<sup>7</sup> *Royal Commission on Government Organization* vol. i, pp. 55-56. In fact the Commission proposed that the Secretariat be transferred to the Privy Council Office, thereby emphasizing the Treasury Board’s *de facto* role as a committee of the Cabinet stressing the Prime Minister’s primary concern with finance. The recommendation was resisted because it would have distorted the service role of the Cabinet Secretariat, because the concentration of so much authority in a single central agency would have unbalanced the relationship between departments and central agencies, and because the equilibrium among central agencies is itself essential to the well-being of the system as a whole.

<sup>8</sup> The Commission also noted the following: “... in general, the defects in government are the consequence of outmoded concepts of public administration and do not reflect on the calibre of Canada’s public servants.” “All told, the structure of control built up between 1918 and 1951 was impressive and unique. Measured against the most narrow objectives, it was also unquestionably effective: the standards of probity reached by the Government of Canada in its use of people and money are high. But good management consists in more than the avoidance of sin, and this Calvinistic approach to public administration, while well designed to discomfit bad managers, was bound to prove most frustrating to good ones.” “Your Commissioners believe that departmental management must be entrusted with the power of decision in many of the areas now being controlled by the staff of the Treasury Board. Leaving such detailed matters to the departments should develop a greater sense of responsibility among departmental managers. . . Treasury Board, freed of this detail, should concentrate on the essential task of reviewing the programmes and objectives of departmental management in relation to overall government policy.”

17. At the same time, the government introduced the Planning, Programming, Budgeting System (PPBS). It provided for the preparation of departmental budgetary estimates by program, the defining of the precise objectives of each program and evaluation of their total cost. It also encouraged a search for alternate means of achieving the same objective. Its goal was to rationalize budgetary choices, to allow for better evaluation of government programs and to integrate political decision-making into the process for managing public expenditures.

18. By 1976, however, the Auditor General concluded that financial management and control in the federal government was inadequate and would likely remain so unless the government took strong action. Based on the study of financial management systems in departments, agencies, and Crown corporations, the Auditor General reported that “Parliament—and indeed the Government—has lost, or is close to losing, effective control of the public purse.”

19. In 1978, as part of the government’s response to the Auditor General’s Report, a new Office of the Comptroller General was established. While similar in name to the former Comptroller of the Treasury, the function was different. The Comptroller General reported to the Treasury Board on financial management, program evaluation, and internal audit in government departments.

20. The 1979 report of the Royal Commission on Financial Management and Accountability, chaired by Allen Lambert, picked up the management board theme enunciated by the Glassco Commission. It recommended that the Treasury Board become a board of management to provide a single focus for the central management of the federal government. Its intention: that the board of management would be able to assure Parliament and the public that sound management practices were in place and operating in government.

21. The Lambert Commission went beyond the 1962 Glassco Commission’s suggestion to “let the managers manage.” It argued that “the managers of government . . . should be required to manage in a way that will best serve the public interest.” To do this, it advised strengthening accountability within government and from government to Parliament.

22. The Lambert Commission noted:

“After two years of careful study and consideration, we have reached the deeply held conviction that the serious malaise pervading the management of government stems fundamentally from a grave weakening, and in some cases an almost total breakdown, in the chain of accountability, first within government, and second in the accountability of government to Parliament and ultimately to the Canadian people.”

“The philosophy underlying our entire approach is not just that managers of government should have the opportunity to manage the affairs that fall

within their responsibility, but that they should also be required to manage them in a way that will best serve the public interest. While the Glassco Commission insisted that managers be free to manage, it is evident to us that they have not been able to use this freedom effectively.”

“As for the Treasury Board and its Secretariat, we contend that they should play a fundamental role in the management of government and that the nature of this role should be reflected in a change of name.”

“The Board of Management would provide a single focus for the central management of government, consolidating the responsibilities for personnel and financial management . . . . The activities of the Board of Management . . . should be directed toward monitoring departments and agencies in the administration of their programs and activities, ensuring the development and application of government-wide policies, practices, and standards for consistency and fairness in the management of people and money, and acting as employer for the purpose of collective bargaining.”

23. Without addressing every recommendation made by the Commission, the government followed up on certain key recommendations. In 1979, the Policy and Expenditure Management System (PEMS) was established. PEMS provided a framework for five-year planning and created a system of resource envelopes. Under the system, Cabinet policy committees set ceilings for departmental expenditures within their sector, and resources were then allocated within those limits. PEMS also introduced a government multi-year fiscal plan containing projected public revenues and expenditures. PEMS was replaced in 1995 by the Expenditure Management System.

### **The 1980s and Early 1990s**

24. A 1983 report by the Auditor General also stressed the importance of striking a balance between management control and flexibility.

“We are not advocating a return to an unlimited ‘let the managers manage’ philosophy or an indiscriminate reduction of regulations and controls. In the absence of incentives that exist in the private sector, central controls will continue to be necessary in the public service to achieve a satisfactory level of prudence, probity, and equity. The challenge is to achieve a balance between the requirement for central control and the need for an adequate level of managerial authority so that managers can be responsible and accountable.”

25. To this day, the challenge of the vision of the role of a management board articulated by the Lambert Commission, the Auditor General and others continues to impact upon the Treasury Board and the broader approach to public sector management.

26. Over the 25 years after the Lambert Commission, the Treasury Board introduced various measures in attempting to achieve this balance and effective systems of management, control and accountability within departments and across government. At the same time this transformation confronted a difficult fiscal environment and significant restructuring that had to be addressed first. The 1980s and 1990s were periods during which the government undertook numerous exercises to cut departmental budgets and in which departments and agencies also were re-organized and restructured.

27. By the late 1980s, however, it was apparent that the weakening fiscal situation could not be dealt with through small cuts. In 1989, the government established a new committee of Cabinet—the Expenditure Review Committee—to help ensure that spending was directed to the highest priorities and that spending restraint contributed to deficit reduction. The Committee was supported by officials from the Department of Finance and the Treasury Board Secretariat and identified spending cuts that were included in the 1989 Budget.

28. The Increased Ministerial Authority and Accountability (IMAA) regime announced a change in Treasury Board's approach to decision-making that was intended to significantly increase the authority and accountability of departments and agencies. Never fully implemented and since overtaken by other initiatives, it was described as a fundamental change in philosophy that could significantly alter the relationship with departments and the management culture of the federal government. This involved a reduction of administrative requirements and authority changes for all departments, as well as increasing delegation of authority to specific departments. Departments were invited, on a voluntary basis, to sign a memorandum of understanding (MOU) under IMAA, which represented a three-year agreement between a department and Treasury Board involving submissions by departments of an annual management report, and a formal accountability review at the conclusion of the MOU.

29. In the early 1990s the focus of the Treasury Board Secretariat was changing from an emphasis on submissions to a broader based, more strategic approach to understanding the management of departmental activities. These changes were responding to the evolution of the management agenda of the Secretariat.

30. Public Service 2000 was an initiative launched during this period to reflect a new management philosophy that focused on results, flexibility, innovation, judgement (versus rules), accountability, and viewing the public servant as an asset.

31. During this period, the role and approach of the Secretariat evolved considerably. In the early 1990s, the focus was on using expenditure management and control as the primary lens in developing and maintaining an overview of departmental management. This was achieved through the review of multi-year operational plans and individual submissions seeking various authorities and access to funds. At this time the Secretariat also provided advice on proposals for access to funding from policy reserves and would act on these decisions as appropriate through submissions. Through this time period,

from 1990 to 1994, the Secretariat processed on average approximately 1,850 submissions annually.

### **The 1993 Reorganization and the Mid-1990s**

32. In June 1993, a major reorganization of the government was announced that, in one way or another, affected all departments in the public service.

33. The reorganization created departments that were organized more on functional lines than around particular client groups, and brought together essential policy and program tools in critical areas such as employment and income security. This consolidation of functions was intended to internalize decisions that had previously required lengthy interdepartmental consultation, thus giving individual Ministers clearer authority over their areas of responsibility.<sup>9</sup>

34. The organizational changes announced in June included:

- An overall reduction in the number of departments from 32 to 23;
- The creation or redesign of eight departments; and
- The merger or wind-up of 15 others.

35. As part of this reorganization, the Office of the Comptroller General of Canada, which had existed as a distinct organization separate from the Treasury Board Secretariat since 1978, was amalgamated with the Secretariat and the title and responsibilities for both were delegated to a single individual -- Secretary of the Treasury Board and Comptroller General of Canada. This reorganization also resulted in the creation of Public Works and Government Services Canada, consolidating virtually all common services provided to federal departments and agencies.

36. In November 1993, the third government that year took office and made further organizational changes, notably the creation of a new Department of Citizenship and Immigration, and the re-establishment of the Department of the Solicitor General. The Prime Minister also named a Minister, the Honourable Marcel Massé, with specific responsibilities for public service renewal.

37. In 1994, with a clear and unequivocal commitment to address the deficit, the government launched "Program Review", a comprehensive review of all government programs to determine the most efficient and effective way of delivering them and to achieve significant reductions in spending. The Department of Finance established the total reduction needed to achieve the government's targets, and allocated that reduction to individual departments. Departments then found those savings, guided by six tests: public interest, role of government, federalism, partnership, efficiency and effectiveness, and affordability.

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<sup>9</sup> For further information on the 1993 reorganization of Prime Minister Campbell see the following link [http://www.pco-bcp.gc.ca/default.asp?Page=Publications&Language=E&doc=2rept94/chap2\\_e.htm](http://www.pco-bcp.gc.ca/default.asp?Page=Publications&Language=E&doc=2rept94/chap2_e.htm)

38. During this period, when Program Review was a dominant feature across government, the Secretariat's efforts were focused on dealing with the significant impact on and implications for the public service of Program Review. These included the elimination of over 60,000 positions and developing the programs that needed to be put in place to achieve and manage the needed staff departures, as well as overseeing the program changes and restructuring that resulted from Program Review spending reductions. This encompassed some major changes to departments themselves as some were significantly reduced in size and some functions privatized. To take but one example, Program Review at Transport Canada and the commercialization of the air navigation system (Nav Canada) reduced Transport Canada's budget from \$2 billion dollars to \$0.86 billion dollars and the ranks of its employees by over 19,000 FTEs. In addition, this period was marked by two strikes<sup>10</sup> and labour unrest as the reorganization and downsizing of the public service took place. Based on decisions made in Program Review, the Secretariat (itself directly affected by downsizing) monitored progress and organizational impacts through an annual business planning process established in 1995. These changes were implemented concurrently with efforts to improve reporting to Parliament more generally.

### **The Late 1990s to Today**

39. In 1997, following on the heels of Program Review, the Prime Minister formally designated the Treasury Board as the Government of Canada's management board. Its focus: to help departments and agencies improve their management practices. *Results for Canadians*—released three years later—provided a framework and agenda to guide public service managers. It committed the Government of Canada to excellence in four areas:

- Focussing on citizens in its design, delivery, evaluation, and reporting on activities;
- Managing under the highest professional and ethical values;
- Achieving results and reporting them in simple and understandable ways; and
- Spending responsibly.<sup>11</sup>

40. Led by Treasury Board Ministers, the federal government committed to minimizing potential disruptions of services essential to Canadians into the year 2000. The Year 2000 project office at TBS worked with the 31 key departments on a smooth transition through the first months of the year 2000. No major problems were encountered.

41. In addition to preparing for the year 2000, TBS was mandated to lead change initiatives, including the Government On-Line and Service Improvement initiatives.

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<sup>10</sup> From October 1997 to December 1997, there was a labour disruption at the Canada Post Corporation that turned into a general strike in November. From January to April 1999, operational workers (e.g. general labour and trade, general services, heating plant operators) were on strike. Based on TBS officials' recollection, some 500 PWGSC employees were involved.

<sup>11</sup> For a list and brief description of the initiatives under *Results for Canadians* see Annex B, "List of Initiatives under *Results for Canadians: A Management Framework for the Government of Canada* (2000)".



These initiatives were aimed at achieving better service for Canadians by improving citizen access to services and focusing on client satisfaction.<sup>12</sup>

42. In 2003, the federal government issued additional documents on overall management in the public service:

- The Treasury Board of Canada Secretariat's *Management Accountability Framework* summarizes the Secretariat's expectations for modern public service management. The Secretariat uses it as the basis for discussion with Deputy Ministers and heads of agencies on management practices in their organizations and on priorities for improvement. It also serves as input from the Secretariat into the Privy Council Office's assessment of those senior officials, and for the expenditure and management reviews that the Secretariat conducts.<sup>13</sup>
- The *Values and Ethics Code for the Public Service* guides and supports public servants in all their professional activities. The Code forms part of the conditions of employment in the public service, and covers democratic, professional, ethical, and people values.
- The *Guidance for Deputy Ministers* sets out the responsibilities of Deputy Ministers, as well as their multiple accountabilities.<sup>14</sup>

43. Along with *Results for Canadians*, these documents form the cornerstone of the management philosophy and structure being implemented by the Treasury Board, its Secretariat and the Government of Canada. This philosophy and structure, reflected in the reorganization of government announced in December 2003, emphasises significantly greater focus and attention on the importance of financial management and accountability and key control systems such as internal audit. These priorities were set out in key announcements on December 12<sup>th</sup> including the re-establishment of a separate Comptroller General in the Treasury Board Secretariat to enhance accountability, in the government's response to the Auditor General's Chapters on Sponsorship and Advertising. In March 2004, the government set out a plan, *Strengthening Public Sector Management*,<sup>15</sup> to transform and strengthen public sector management that includes comprehensive measures to:

- Strengthen comptrollership and oversight;
- Review government expenditures and modernize management practices;
- Assure accountability, transparency, good governance, and an enhanced role for Parliament; and,
- Build capacity across the federal public service.

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<sup>12</sup> The results of these initiatives were the subject of two reports to Parliament, one in 2003 and the other in 2004.

<sup>13</sup> Annex M provides further information on the expectations for management and on the indicators to demonstrate progress in implementation of the *Management Accountability Framework*.

<sup>14</sup> *Guidance for Deputy Ministers* (2003) at [http://www.pco-bcp.gc.ca/default.asp?Page=Publications&Language=E&doc=gdm-gsm/gdm-gsm\\_doc\\_e.htm - TOC1\\_2](http://www.pco-bcp.gc.ca/default.asp?Page=Publications&Language=E&doc=gdm-gsm/gdm-gsm_doc_e.htm - TOC1_2).

<sup>15</sup> *Strengthening Public Sector Management* (2004) at [http://www.tbs-sct.gc.ca/spsm-rgsp/spsm-rgsp\\_e.asp](http://www.tbs-sct.gc.ca/spsm-rgsp/spsm-rgsp_e.asp)

44. The role of Treasury Board and its place within the system of responsible government and ministerial responsibility, individual and collective, has significantly evolved since the time of Confederation. With a focus on its role as a management board, that evolution continues to this day and will continue into the future.

## **PART III - TREASURY BOARD AND THE SECRETARIAT**

### **Roles**

45. The Treasury Board's principal role is that of the government's "management board". Supported by the Treasury Board Secretariat, it plays this role in three areas:

- Expenditure management oversight;
- Management performance oversight; and
- Principal employer of the public service.

### **Expenditure Management**

46. This role is performed with the following broad objectives:

- Sustainable, effective and efficient programs that achieve results consistent with government priorities.
- Reports on, and ready access to, information about the government's programs that facilitate accountability to government, Parliament and Canadians for the results achieved with the money spent.

and involves the following principal activities:

- Resource allocation and re-allocation;
- Review of programs – efficiency, effectiveness, sustainability;
- Investments to achieve increased efficiency and effectiveness;
- Acquiring, structuring and analyzing information on programs and management;<sup>16</sup>
- Advising on the appropriateness of actual and proposed program delivery structures, both to the Treasury Board and for the Budget development process;
- Advising on the implications of existing management, program and resources capacity for the implementation of proposed new policy priorities, both to the Treasury Board and for the Budget development process; and
- Supporting Parliament in its role in approving spending and holding the government to account – preparation of Estimates and Public Accounts, parliamentary and public reporting on expenditures and program results.

47. Annex E, Expenditure Management, describes the various expenditure management processes in more detail.

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<sup>16</sup> The Secretariat is in the process of two major, related initiatives: the replacement of its existing, outmoded information technology with more up-to-date and appropriate systems; and the introduction of a replacement for the existing "business line" information structure with a more useful and granular Program Activity Architecture within a Management, Resources and Results Structure that is based on how departments manage themselves.

### Management Performance

48. This role is performed with the broad objective of:

- prudent, ethical and accountable management of resources used to support programs and the results they deliver – funds, assets, human resources and intellectual capital.

and involves the following principal TBS activities:

- TBS assessment of both deputy head and departmental management performance based on the Treasury Board's *Management Accountability Framework* and regular bilateral meetings between the Secretary and deputy heads;<sup>17</sup>
- Within the *Management Accountability Framework*, establishing the criteria by which TBS will assess both deputy head and departmental management performance;
- Leadership in improving the delivery of government services to their clients, through improvements to the way they are delivered and through the development and application of information technology;
- Development of policies and guidelines for management behaviour and practices in areas for which the Treasury Board is responsible – such as human resources, comptrollership and procurement;
- Advice to departments on application of Treasury Board policies and guidelines;
- Supporting and fostering the development of policy practitioner communities including:
  - Accreditation of policy practitioner specialists;
  - Development of human resource strategies for individual communities, including training requirements; and
  - Identification and exchange of policy application experience and “best practices”.
- Advice within Treasury Board Secretariat and to the Treasury Board on the application and relevance of policies to departmental submissions to the Treasury Board, on requests for exemptions from Treasury Board policies, and on the assessment of related departmental audit reports.

### Principal Employer of the Public Service

49. Treasury Board acts for the Queen's Privy Council of Canada on all matters relating to personnel management in the Public Service of Canada, including the determination of terms and conditions of employment. This includes the determination of some of the terms and conditions of employment of persons appointed by the Governor in Council, the Canadian Forces, and the Royal Canadian Mounted Police. Treasury Board is also the employer of the employees of the departments and other portions of the public service

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<sup>17</sup> Annex M provides further information on the expectations for management and on the indicators to demonstrate progress in implementation of the *Management Accountability Framework*.

identified in Part I of Schedule 1 of the *Public Service Staff Relations Act*, and as such it is the principal employer of the public service.<sup>18</sup>

50. In conjunction with the Secretariat's portfolio partners<sup>19</sup> – the Public Service Human Resource Management Agency of Canada and the Canada School of Public Service – as well as the Public Service Commission, Treasury Board has the broad objective of:

- Attraction, retention and management of an effective, talented, and professional public service needed to support and deliver the government's programs.

51. In the exercise of its human resources responsibilities, Treasury Board's principal activities are:

- Providing for the classification of positions in the public service;
- Establishing the terms and conditions of employment through the collective bargaining process and otherwise; and
- Establishing standards of discipline and prescribing penalties, including termination of employment for misconduct.

### **Powers, Instruments and Approaches**

52. Treasury Board's powers and responsibilities with respect to these roles are set out in various pieces of legislation, regulations, orders in council, policies, guidelines and practices. While the primary statute setting out the legislative authorities of Treasury Board is the *Financial Administration Act*, there are over 20 other statutes that also establish its legislative authorities. Further details on the management role of the Board are interlaced with the sections addressing the roles and functions of relevance to the Commission of Inquiry. The key statutory authorities of the Board are included in Annex F, Key Provisions of the *Financial Administration Act*.

53. The three primary roles identified above are linked and not played in isolation. Their integration occurs through a number of instruments and approaches that the Treasury Board uses in carrying out its functions, principally:

- Development of a proactive "management agenda" through which it and its Secretariat take the initiative;
- Oversight; and

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<sup>18</sup> Other employers are referred to as separate employers and are identified in Part II of Schedule 1 of the *Public Service Staff Relations Act*. Examples of separate employers are the Canadian Food Inspection Agency, the National Research Council, the Office of the Auditor General of Canada, and the Communications Security Establishment.

<sup>19</sup> These two agencies and their current responsibilities resulted from the machinery changes announced on December 12, 2003 and, more recently, those that followed the June 2004 election in which the two agencies formed part of the President of the Treasury Board's portfolio.

- Analysis of and recommendations relating to the approval of submissions to the Treasury Board made by departmental Ministers.<sup>20</sup>

### Management Agenda

54. Broadly speaking, development of a proactive management agenda<sup>21</sup> is intended to identify specific initiatives that respond to current issues that are within the Secretariat's (and departments') capacity to address and can encompass:

- Acting as a catalyst for change and working with departments to develop integrated, accessible, citizen-focused service across the Government of Canada;
- Championing results-based management, linking resources to results on a whole-of-government basis and improving the timing, clarity and relevance of parliamentary and public reporting;
- Acquiring and compiling information needed to assess program performance and program integrity across the government;
- Undertaking specific reviews of departmental expenditure and management performance from both an individual, horizontal and program infrastructure perspective; and
- Working with departments and agencies in the continual promotion of public service values and the development of an exemplary workplace characterized by support for the employee and the encouragement of initiative, trust, openness, communication and a respect for diversity.

### Oversight

55. In government, oversight is a role played by many institutions including the Secretariat, the Public Service Commission, the Office of the Auditor General and other agents of Parliament, an array of review agencies, departments themselves, and Parliament and its committees, including the Public Accounts Committee.

56. Generally, departments are primarily responsible and accountable for:

- *Spending* – the expenditure of the funds and management of the assets that they have been allocated;
- *Results* – delivering the results that they commit to achieving with the resources they have been allocated; and
- *Management performance* – meeting the management expectations according to performance indicators in the *Management Accountability Framework*.

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<sup>20</sup> The Treasury Board Submission is an instrument of oversight and in this sense is really a subset of the previous bullet. However, given its importance and focus as an instrument of oversight, it has been specifically highlighted. The Secretariat is currently analysing the types of submissions coming to Treasury Board for approval and whether the number of submission can be reduced in an effort to balance efforts and resources related to the oversight function.

<sup>21</sup> Two recent Treasury Board publications, *Strengthening Public Sector Management* and the *Management Accountability Framework* provide the basis from which the current management agenda is being developed.

57. To that end, departments are also responsible for ensuring that they have in place appropriate management processes, systems and instruments to be able to monitor performance in these three areas. Internal audit and program evaluation are key instruments for departments in this regard.

58. The Office of the Auditor General also plays a key role in the overall accountability framework within which departments function, both through the process of that Office's audits and the resultant reports that the Auditor General tables in Parliament.

59. As indicated in Part II, Historical Perspective, the balance between the degree of control and delegation exercised by the Treasury Board is an issue that continues to evolve. Where the Treasury Board exercises control, it becomes accountable and there is a need to ensure that the respective accountabilities of the Board and departments are clear and do not overlap to the point that accountabilities become blurred. Where the Treasury Board delegates authority to departments, it needs to ensure or be satisfied that appropriate monitoring and accountability structures are in place.

60. The Treasury Board does not have a role in comprehensively "policing" departmental compliance. Its role is more appropriately described as one of selective oversight of departments based on an assessment of risk and the resources and capacity of the Secretariat to undertake oversight and monitoring activity. It performs this oversight role as part of carrying out its core functions within a framework that has three components<sup>22</sup>:

- Existing sources of information on departmental management performance:
  - Departmental audits, program evaluations and action plans;
  - Departmental reports, such as the *Departmental Performance Report*;
  - TB submissions;
  - Auditor General reports;
  - Public Accounts;
  - TBS and departmental reviews; and
  - TBS dialogue with departmental officials (at all levels).
  
- A process of "escalation" within TBS:
  - Based on the principle that all TBS staff have a responsibility to escalate information on actual or potential management performance issues to a point of decision on whether or not to take any action;
  - Primarily oral, not paper-based; and
  - An integral part of TBS work that occurs through the normal chain of command and includes regular meetings where this is considered as a "standing agenda" item.

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<sup>22</sup> TBS is in the process of fully developing and implementing this approach. For more information on oversight and monitoring see Annex I.

- Decisions to take further oversight action or to intervene:
  - Primarily based on judgement taking into consideration the particular situation, the degree of management risk and the nature of the intelligence on which intervention is being considered; and
  - Where intervention is considered necessary, a range of possible interventions available, including:
    - Informal TBS follow-up with department to ensure appropriate action being taken;
    - More formal follow-up by TBS senior management;
    - More formal follow-up by President with appropriate Minister;
    - TB decision to direct specific preventive/remedial action;
    - TB decision to require external audit or other investigation;
    - TB decision to impose sanctions; and
    - TB decision to remove authorities extending to appointing an external party to exercise specific departmental management responsibilities.

#### Treasury Board Submissions

61. Submissions still represent the primary vehicle based on which the Secretariat delivers its advice to Treasury Board. Submissions to Treasury Board mostly originate from other government departments though the Secretariat can and does originate submissions itself. Secretariat submissions to the Treasury Board fall into one of three categories:

- Where the Secretariat as a department needs to seek approvals from the Treasury Board in the same way that other departments do (e.g., pursuant to a Treasury Board policy or dealing with resource allocation);
- Where the Secretariat needs a specific approval related to functions it carries out on behalf of or in support of the Treasury Board's role (e.g., to approve a policy, or to enter into a collective agreement); and
- On behalf of departments when it is appropriate for the Secretariat to combine common issues in what is often referred to as an "omnibus" submission or report (e.g., for the Annual Reference Level Update, or for Supplementary Estimates).

62. Submissions originating from departments largely fall within the following areas:

- Allocate resources previously approved by Cabinet or included in the federal Budget;
- Authorize or amend terms and conditions of programs governing grants or contributions;
- Carry out a project or initiative, the costs of which would exceed a department's delegated authority;
- Enter into a contract above the limits set out in Appendix C of the *Contracting Policy*; and
- Obtain an exemption from a Treasury Board policy.



63. A detailed description of the submission process is contained in Annex G.

### **Organizational Structure**

64. As described above, the Treasury Board is a committee of the Privy Council with a statutory base set out in the *Financial Administration Act*. It is a committee of Ministers, chaired by the President of Treasury Board. The Minister of Finance is traditionally the Vice-Chair, with the other members appointed by the Prime Minister. The other Ministers may be appointed as regular members, alternates or *ex-officio*. A quorum is made up of the Chair or Vice-Chair plus any two other members.<sup>23</sup> Ministers do not participate with respect to items related to the departments or organizations for which they are responsible to Parliament.

65. The Ministers who make up Treasury Board have also been tasked by the Prime Minister to approve most Orders in Council, a task they perform as Ministers of the Cabinet as opposed to a power provided to Treasury Board. In effect, two committees of Cabinet, a special committee that approves Orders in Council (Special Committee of Council) and Treasury Board, have been amalgamated into one. In fulfilling this role of the Governor in Council, a quorum is made up of any four Ministers.

66. The Secretariat, as a separate department, reports to the President of the Treasury Board through the Secretary, who is equivalent to a Deputy Minister. The Secretariat employs approximately 725 public servants in order to support the Treasury Board.<sup>24</sup> It is made up of various operational units, and the current organizational structure is attached as Annex D. As the structure of the Secretariat reflects its roles and responsibilities, further detail is provided in the preceding sections on Roles and Powers, Instruments and Approaches.

## **PART IV - ROLES AND FUNCTIONS OF RELEVANCE TO THE COMMISSION OF INQUIRY**

67. The preceding section provided a broad overview of the roles, functions and activities of the Treasury Board and its Secretariat. The following sections elaborate in more detail the different areas in which the Secretariat supports Treasury Board in the implementation of its role as a management board that may be relevant to the work of the Commission.

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<sup>23</sup> For a list of the current and past members of the Treasury Board see Annex C. The Minister of Public Works and Government Services Canada, and the Ministers of the predecessor departments responsible for supply and service, have traditionally been appointed a member of the Treasury Board.

<sup>24</sup> As of December 12, 2003, a portion of the roles and responsibilities of the Secretariat in support of the Treasury Board were transferred to the newly formed Public Service Human Resources Management Agency of Canada (PSHRMAC), primarily in the area of policy development related to official languages, classification, grievances, and other human resources matters. This transfer did not affect the roles and responsibilities of the Treasury Board in these areas. The PSHRMAC and the Canada School of Public Service and their current responsibilities were moved to the President of the Treasury Board's portfolio in June 2004.

## **Comptrollership**

68. The roles and responsibilities of the Comptroller General of Canada have changed over time. Part II traces the evolution of the office of the Comptroller, from its initial incarnation in 1931 to its re-creation in 1978 to its amalgamation with the Secretariat in 1993.

69. The evolution of the office through the 1990s and into this decade is worthy of a more detailed exploration as it assists in understanding the management board role of Treasury Board. After the position had been amalgamated with that of the Secretary's, in 1994, a new position and branch - Deputy Secretary, Financial and Information Management Branch - was established. In 1996, these responsibilities were split in two with the establishment of the positions and organizations for a Deputy Comptroller General (DCG) and a Chief Information Officer (CIO). By 1998, with a new name – the Comptrollership Branch, headed by the Deputy Comptroller General – it was responsible for the following functions: financial management, internal audit, financial information strategy, project management and procurement, real property and materiel management, risk management, results-based management and evaluation, expenditure management and operations, and modern comptrollership.

70. The announcements on December 12, 2003<sup>25</sup> and in Budget 2004<sup>26</sup> outlined the government's intention to re-establish the Office of the Comptroller General of Canada as a distinct office in the Treasury Board Secretariat, to provide overall leadership in ensuring that departments comply with Treasury Board policies for strong expenditure control and rigorous stewardship and to arrange for professionally accredited comptrollers to sign off on all new spending initiatives in every government department.

71. In June 2004, following the appointment of the new Comptroller General, a new Office of the Comptroller General (OCG) was established as a distinct organization in TBS. Consistent with the focus on sound financial management in the OCG, other responsibilities that were under the former Comptrollership Branch now fall elsewhere in the Secretariat. Specifically, responsibilities related to Estimates operations and reporting, results-based management and evaluation fall within the Expenditure Operations and Reporting Sector (previously the Expenditure and Management Strategies Sector); and those related to project management and procurement, real property and materiel management, and risk management fall within the Management Policy and Labour Relations Branch.

72. With a more focused set of responsibilities, the OCG will continue its emphasis on its responsibilities for financial management and accounting policy, financial systems infrastructure and internal audit. The Office will continue to oversee the development of financial management and audit communities. The establishment of the specific activities and resources of the OCG is work in progress. For example, the OCG is

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<sup>25</sup> The following link provides details of the announcement <http://pm.gc.ca/eng/accountability.asp>.

<sup>26</sup> The following link provides details on Budget 2004 <http://www.fin.gc.ca/budget04/bp/bpc3e.htm>

examining the development of the capacity to provide internal audit services to small agencies.<sup>27</sup>

73. Traditionally, comptrollership in government had been seen as the responsibility solely of financial staff, with its focus on recording and reporting financial transactions and making sure government organizations only entered into properly authorized transactions. Modern Comptrollership focuses on transforming the way managers and financial specialists co-operate, enabling managers by providing tools to help prioritize, plan and meet operational goals and to achieve better results. It also recognizes that managers and financial specialists need to work in partnership, rather than rely unduly on complex rules and regulations, and it requires that the responsibility rest in the hands of departmental managers.

#### Modern Comptrollership

74. In 1997, under the direction of the Secretariat and with the creation of an Independent Review Panel, the federal government launched a comptrollership modernization initiative. The Panel's report noted that modern comptrollership requires managers and financial specialists to work in a co-ordinated way to prioritize, plan, and meet operational goals and to achieve desired results. The Panel identified four key elements of modern comptrollership:

- Integrated performance information (financial and non-financial, historical, and prospective);
- A sound approach to risk management;
- Appropriate control systems; and
- A shared set of ethical practices and organizational values, beyond legal compliance.

75. The Treasury Board accepted the recommendations of the Report of the Independent Review Panel and provided time-limited funding to establish a Comptrollership Modernization Office (CMO), within the Comptrollership Branch of TBS, to support comptrollership modernization throughout the Government of Canada. Under the leadership of TBS, a pilot phase of the Modern Comptrollership Initiative (MCI) was launched in 1998. Modern comptrollership initiatives were introduced into thirteen departments and two agencies. Five organizations introduced the initiative in 1998-1999, six started early in 1999-2000, with the remaining four joining late in 1999-2000. An assessment of the Pilot Phase of MCI was conducted in October 2001.<sup>28</sup>

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<sup>27</sup> The authority for the Office is found in subsection 6(3) of the *Financial Administration Act*, which provides that: "The Governor in Council may appoint an officer called the Comptroller General of Canada to hold office during pleasure and to perform such duties and functions as may be assigned to him by the Treasury Board, and the Comptroller General of Canada shall rank as and have all the powers of a deputy head of a department."

<sup>28</sup> The results of the assessment may be found at the following link [http://www.tbs-sct.gc.ca/cmo\\_mfc/resources2/eval\\_phase\\_1/ep1\\_06-PR\\_e.asp?printable=True](http://www.tbs-sct.gc.ca/cmo_mfc/resources2/eval_phase_1/ep1_06-PR_e.asp?printable=True).

76. Subsequently, the Treasury Board provided additional time-limited funding to sustain the CMO to March 31, 2004. After that, it was expected that the ongoing support for continued improvement of comptrollership would no longer need to be sustained through a separate dedicated office. Currently, the investments of TBS and other departments are beginning to bear fruit as Modern Comptrollership is becoming entrenched as a foundation for modern management practices within departments. Since 2002, Modern Comptrollership has been introduced in over 90 federal government organizations. Sustaining this change in approach from an initiative to a daily method of operation focused on sound management of resources and effective decision-making continues to form an integral part of TBS's role in comptrollership.

77. The TBS Modern Comptrollership website provides more information on the tools, learning, communications, innovations and results of MCI, which the Independent Review Panel estimated would take at least ten years to implement.<sup>29</sup>

78. A Summative Evaluation and Final Report on Achievements in Modern Comptrollership is expected in the autumn of 2004. The goal of this last report on the MCI is to provide a government-wide picture of the state of modernization of comptrollership in the Government of Canada. The report will also provide an assessment of the successes and results achieved by the MCI and of its overall impact and sustainability, and make recommendations on next steps.

### **Expenditure Management**

79. There are two areas within the Secretariat that support TBS's expenditure management responsibilities. The first is the Expenditure Operations and Reporting Sector, which has the lead in planning and operationalizing the Secretariat's role in the government's expenditure management system. More specifically, the sector plays an internal challenge function on resource allocations, coordinates the Annual Reference Level Update exercise and develops the resultant report to the Treasury Board, and plans and implements initiatives to achieve other expenditure management objectives such as the recent initiative to find \$1 billion in ongoing annual reallocation savings. The sector manages access to central reserves under Treasury Board's control (e.g., operating, contingency and compensation reserves). It is the primary point of liaison with PCO and Finance on matters related to the fiscal framework, pressure management and Budget development, including decisions to make allocations from earmarked and other reserves. To obtain Parliamentary spending approval, the Sector prepares Estimates documents and supports the tabling of supply legislation (see Annex E for more details).

80. Once funding is allocated to departments, the Sector supports expenditure oversight by providing integrated and comprehensive reporting to Parliament, departments and the public (i.e., Estimates, Reports on Plans and Priorities, Departmental Performance Reports, and Canada's Performance Report). The Sector also leads the improvement and development of reporting instruments and supports related capacity development across government.

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<sup>29</sup> The website is found at the following link [http://www.tbs-sct.gc.ca/CMO\\_MFC/index\\_e.asp](http://www.tbs-sct.gc.ca/CMO_MFC/index_e.asp).

81. The second area is the Expenditure Policy and Analysis Sector, which is the lead area for the development of expenditure policy and related research, and for expenditure analysis. This Sector also manages a project to develop a new expenditure management information system. Its goal is to support an integrated TBS expenditure management role by developing a better understanding of departmental A-bases and fostering more strategic use of financial and performance information. Specifically, the Sector supports TBS's role in the expenditure management system: by identifying drivers of expenditure growth (e.g., new policy initiatives, personnel costs); explaining implications of Finance's macro-economic policy recommendations on direct program spending and advice on options; and, performing targeted analysis (e.g., analysis on lapsed funding).

### **Program Sectors**

82. As the Treasury Board Secretariat has evolved over time, so too has its internal organization. Program Sectors have existed since January 1997 in various configurations and are currently organized into four areas – Social and Cultural; Economic; Government Operations; and International, Security and Justice. The Program Sectors are one of the key areas of the Secretariat that support the Treasury Board in the implementation of its role as a management board. They provide analysis and advice to Treasury Board on strategic resource allocation for departments and agencies.<sup>30</sup> In fulfilling this role, the Sectors provide advice on: the effective use of resources; program design, viability and responsiveness; funding pressures and mitigation strategies; broad government operational issues and management strategies; as well as audits and program evaluations.

83. The Program Sectors provide the Secretariat's primary interface with federal departments, agencies and Crown corporations and maintain an integrated view of department-wide management practices. The Program Sectors also advise departments on resource and program design issues associated with policy proposals and changes to existing programs. Program Sectors not only challenge and provide advice in the context of Treasury Board submissions, but also on the process of policy development, the management of horizontal activities and government-wide initiatives such as reallocation exercises. Program Sectors work closely with departments and other parts of the Secretariat to assess incremental resources requests and allocations and pressures, and to understand spending of the current A-base. They are key contributors to the assessments conducted under the MAF and to the building and maintaining of better information on resources and performance in departments. The means of engaging departments is through a network of contacts, familiarity with data and information relating to a particular department or agency and in working on transactions such as Treasury Board submissions.

### **Policy Centres**

84. The Policy Centres provide policy leadership in their respective policy areas. This role entails establishing, assessing the effectiveness of, and reviewing the policy framework as spelled out in various laws, regulations, policies, and associated guidelines.

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<sup>30</sup> Generally, this advice is provided through the précis, which is developed during the Treasury Board submission process. The details of the role of the Program Sector in this area are found in Annex G, "Treasury Board Submission Process".

85. In addition, Policy Centres are responsible for developing specific processes and tools used to support departmental personnel and Program Sector analysts. The Policy Centres also support several key partners in the development of training regarding policies for departmental personnel as well as TBS Program Sector analysts. Annex H contains summaries of the key policies relevant to the Commission of Inquiry and a chronology of their evolution.<sup>31</sup>

86. In August 2002, the Secretary of the Treasury Board launched the Treasury Board Secretariat Policy and Reporting Review Project. The project's objectives are to enable the Secretariat to reduce the number and enhance the relevance of policy instruments and reports; provide coherent direction on important issues; relate policies and reporting to priorities and results; clarify roles, responsibilities and accountabilities, both within the Secretariat and for departments and agencies; and improve the accessibility of policy instruments and target them to appropriate audiences. This initiative is consistent with the Budget 2004 announcement to strengthen public sector management by strengthening comptrollership and oversight. The commitment is to reform the policy suite to streamline reporting requirements, provide greater policy clarity and focus on key risk areas.<sup>32</sup>

#### Financial Management

87. The sound management of federal resources is a key obligation of the government. The government operates within a complex structure of financial management rules supported by systems of management and control. These rules serve important control and accountability<sup>33</sup> functions and guide all financial transactions. Within the Secretariat, the Financial Management and Accounting Policy Directorate (FMAPD) is the unit tasked with carrying out the roles and responsibilities described below.

88. The Secretariat's activities include coordination with the Department of Finance, the Receiver General<sup>34</sup> and departments and agencies, and with the Office of the Auditor General, Parliamentary Committees, and domestic and international public sector professional accounting associations.

89. The FMAPD directs the development and maintenance of the government's financial policy framework and associated standards, systems, and practices. Through centres of excellence, the Directorate provides functional leadership in the area of financial legislation, authorities, and other instruments within the policy framework.<sup>35</sup>

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<sup>31</sup> The summary has been prepared for ease of reference. For official use, the actual policies should be consulted.

<sup>32</sup> From Budget 2004 announcement on Strengthening Public Sector Management (Strengthening Comptrollership and Oversight - [http://www.tbs-sct.gc.ca/spsm-rgsp/media/0324c\\_e.asp](http://www.tbs-sct.gc.ca/spsm-rgsp/media/0324c_e.asp)).

<sup>33</sup> Accountability is described as "the obligation to render an account, and accept responsibility for, one's actions, both in terms of the results obtained and the means used". Source: 2004 Report of the Auditor General of Canada – Chapter 7 "A Study of the Role of the Treasury Board and its Secretariat".

<sup>34</sup> The Office of the Receiver General is part of the Department of Public Works and Government Services.

<sup>35</sup> This policy framework addresses various topics, including, but not limited to, the following: accounting standards; payment requisitioning; repayment of receipts; receipts and deposits of public money;

90. Secretariat officials regularly appear before Parliamentary Committees to address financial management matters of interest to Parliamentarians.

91. In carrying out these roles, the FMAPD develops, communicates, and renews the financial policy framework. This includes ensuring that the framework provides for a reasonable balance between the cost of controls and the risks the controls are designed to manage.

92. The Directorate is responsible for providing direction, expert advice, and guidance with respect to the application of the instruments within the financial policy framework. This includes ensuring that recommendations take into account diverse and interrelated legislative, operational and administrative considerations. Part of this responsibility includes the review of Treasury Board submissions, as required, to ensure they are compatible with the controls prescribed by the financial management policy framework.

93. Where major changes to legislation or policy are required, the Secretariat prepares the Memoranda to Cabinet and submissions for the approval of the Treasury Board, Cabinet or the Governor in Council. The Secretariat is responsible for ensuring that the changes are enacted and that appropriate revisions are implemented to enable the government to operate in new ways.

94. The FMAPD directs the preparation of the Chart of Accounts, Financial Statements of the Government and the Public Accounts of Canada.

95. The Directorate undertakes studies on financial management to identify gaps or inconsistencies in the current financial policy framework resulting from the changing government environment, changing financial management practices, or the application of new technology. This may involve government-wide projects leading to the development, or review and revision of aspects of the financial policy framework.

96. Finally, the Directorate is responsible for leading the development of the financial community by overseeing the government-wide recruitment of professional financial officers; the maintaining of the Classification Standards for financial officer positions; and ensuring the availability of appropriate training and development opportunities.

#### Contracting and Procurement

97. The work of the procurement policy centre in the Secretariat, currently named the Procurement and Project Management Policy Directorate (PPMPD) in the Management Policy and Labour Relations Branch focuses on the project management and procurement

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accountable advances; security of debts; assignment of Crown debts; debt write-off; losses of money; interest charging; loans; deletion of debts; advances; foreign banking; receivables management; financial arrangements, such as Special Revenue Spending Authorities; sharing set-off with the provinces and territories; grants and contributions; and cost recovery.

related dimensions of government's financial management rules and systems of management, control and accountability. The organization's work centres on:

- Developing, assessing the effectiveness of and reviewing policies and specific processes and tools used in project management and procurement;
- Working with standards setting bodies in establishing professional certification of procurement and contracting practitioners as well as learning programs;
- Undertaking specific reviews and activities related to the policy framework; and
- Supporting Treasury Board, the Secretariat, and departments in monitoring and assessing the management of project management and procurement.

98. Examples of the kinds of products developed by the policy centre include a values and ethics statement and courses for the procurement community, best practices guides, professional certification standards for procurement, competency profiles for procurement practitioners, and on-line tools for preparing and reviewing Treasury Board submissions seeking authority to enter into contracts related to project management and procurement.

99. The policy centre assesses the effectiveness of its policy framework to identify policy improvements or the need for additional guidance or tools. Several mechanisms are used - including reviewing Auditor General and internal audit plans, reports and departmental action plans, and Parliamentary Committee Reports; studying international public and private sector practices; working with departments on reviews and initiatives; working on the professional development and certification program for contracting specialists; reviewing cases at the Canadian International Trade Tribunal; and working on transactions and various special studies.

100. The Directorate supports Secretariat officials and departments in assessing the management of projects and procurement and in addressing problems. This is undertaken through advice on activities related to the management of procurement such as, internal audit, internal contract review committees and quality assurance systems as well as delegation and training. This work has included the development of a *Guide for Managers and Internal Audit: Monitoring Procurement and Contracting* to help departments further strengthen internal audits, and ongoing management reviews to improve departmental contracting and to increase departmental effectiveness in managing this function.

101. The Directorate also assists TBS Program Sectors in maintaining an integrated view of department-wide management practices, including those related to contracting and procurement. For example, assistance is provided in the preparation of action plans to address recommendations in internal audit reports and departmental management assessments as required.

102. With the announcement of Budget 2004 and the Secretariat's Policy and Reporting Review Project, efforts centre on advancing Treasury Board's policy suite renewal to strengthen investment decisions and management of projects and



procurement. Key to this will be ensuring an integrated approach to the management of assets and services, closely linked to financial management and controls including reporting on the award of contracts over \$10,000 and the development of a government-wide information system that provides information in a timely manner in support of effective oversight and decision-making.

103. As well, the Directorate will contribute to Budget 2004 efforts to strengthen public sector management in terms of building public sector capacity, through commitments to enhance the role of the new Canada School of Public Service; establishing a core curriculum for public servants from entry level through successful levels of responsibility; and setting certification standards for public sector managers in areas such as financial management, internal audit and procurement and contracting.

#### Internal Audit

104. In 1982, the then Office of the Comptroller General promulgated “Standards for Internal Audit in the Government of Canada”. That publication noted that internal auditing had been recognized as an important element in the managerial control process since the report of the Glassco Commission. It remains so today, as confirmed by the latest Treasury Board *Policy on Internal Audit* that became effective on April 1, 2001. As part of the development of the revised policy, TBS conducted a study and published a report in January 2000 entitled “*Study of Internal Audit in the Federal Government*”.<sup>36</sup> Under the heading “Structural Considerations”, the study explored the issue of centralizing the internal audit function as some provinces have done. On balance, the study concluded that the current decentralized structure is appropriate.

105. The 2001 policy established the Centre of Excellence for Internal Audit in TBS. The Centre’s primary role and responsibility is to lead and support departments in the continuing implementation of the *Policy on Internal Audit*. Through a consultative approach the Centre:

- Provides advice to deputy heads, heads of internal audit, and internal audit practitioners on the implementation of the policy, development of departmental internal audit policies and annual audit plans, and application of professional standards;
- Performs a monitoring function to provide timely information to Treasury Board on significant issues of risk, control, or other problems with management practices in departments;
- Develops human resource strategies for the internal audit community to support departments in implementing the policy;
- Establishes frameworks to guide on-going evaluation of the effectiveness of this policy;

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<sup>36</sup> The study may be found at the following link [http://publiservice.tbs-sct.gc.ca/ia-vi/policies-politiques/study-etude/study-etude\\_e.asp](http://publiservice.tbs-sct.gc.ca/ia-vi/policies-politiques/study-etude/study-etude_e.asp). TBS is not aware of any studies on the specific subject of the independence of internal departmental audit groups and possible alternatives.

- Provides assistance to departments in evaluating the performance of their internal audit functions; and
- Provides leadership in the support and promotion of the internal audit function.

106. The Centre contributes to the Secretariat's support of the management role of Treasury Board by:

- Providing the Board with a government-wide view of risk;
- Identifying government-wide internal audit priorities for the Board's consideration;
- Providing early warning and advice on emerging issues and potential vulnerabilities; and
- Liaising with other sectors for monitoring purposes.

107. The Centre provides horizontal management of internal audit activities by:

- Providing feedback on departmental internal audit plans;
- Assessing the quality of internal audit reporting across government;
- Tracking internal audit activity across departments;
- Providing policy advice on Treasury Board submissions, transfer payments, and Risk-based Audit Frameworks; and,
- Reviewing audit frameworks for key Treasury Board policies as determined through risk assessment (e.g., grants and contributions).

108. Budget 2004 announced the Government's intention to "reorganize and bolster the internal audit function on a government-wide basis to ensure comprehensive audit programs, based on sound risk analysis of all departmental activities, with the authority to delve into every corner of every portfolio, no matter how small or seemingly 'special'." Among the activities planned to accomplish this, subject to finalizing the details of the activities and resources of the OCG, are:

- Produce clearly defined roles, responsibilities and profiles for Chief Audit Executives and clarify performance expectations, lines of accountability and related governance for the internal audit function by December 31, 2004;
- Conduct diagnostic of the internal audit function within the Government of Canada by reference to professional standards and current practices in the public and private sectors by March 2005;
- Complete initial wave of audits for small departments and agencies by June 30, 2005 and develop three-year audit plan for small departments and agencies 2006-2009 by March 31, 2006;
- Complete one internal OCG-led Government of Canada-wide horizontal audit by December 31, 2005 and develop three-year OCG-led Government of Canada-wide horizontal audit plan by March 31, 2006; and
- Monitor performance of the internal audit function across the Government of Canada on an ongoing basis and report on findings to the Secretary."

## **Communications and Federal Identity Program**

109. Communications are central to the work and management of the Government of Canada.

110. The *Communications Policy of the Government of Canada* promotes coherent, consistent and effective communications within, between and among institutions — one government, speaking with one voice. As a principles-based policy, it reinforces open communications — the government’s duty to inform; the citizen’s right to be heard. It underscores the need for institutions to provide the public with timely, accurate, clear, objective and complete information about its policies, programs, services and initiatives. It strengthens provisions on official languages and for communicating in multiple formats to accommodate diverse needs. It also encourages public service managers and employees to safeguard Canadians’ trust and confidence in the integrity and impartiality of the Public Service of Canada.

111. Institutions are provided with direction on various areas of communications management, including official languages, corporate identity, crisis and emergency communication, environment analysis, planning and evaluation, regional operations, internal communication, Internet and electronic communication, media relations, advertising, partnering and collaborative arrangements, sponsorships, marketing, publishing, training and professional development to help them address the policy’s commitments.

112. In the context of corporate identity management, a senior official is designated by the deputy head and referred to as head of communications to assume responsibility to manage the institution’s corporate identity in accordance with *Federal Identity Program Policy* and standards. The Treasury Board Secretariat provides functional leadership for the government’s corporate identity, and is responsible for coordinating the implementation of the *Federal Identity Program (FIP)*. The *FIP* is aimed at enabling the public to recognize clearly federal activities by means of consistent identification; facilitating access to federal programs and services; projecting equality of status of the two official languages consistent with the Canadian Charter of Rights and Freedoms and the Official Languages Act; achieving savings through standardization; and promoting good management practices in the field of corporate identity and information design. Annexes H-1a) and b), summaries of the *Communications Policy of the Government of Canada* and of the *Federal Identity Program Policy*, include key provisions for these policies along with a chronology of their evolution.

## **Crown Corporations**

113. Treasury Board and the Secretariat have a different set of roles and responsibilities with respect to Crown corporations as compared to departments and agencies. Part X of the *Financial Administration Act* defines the roles, responsibilities and accountabilities of the various authorities in their relationships with Crown corporations for the 37 corporations<sup>37</sup> scheduled under the Act. Crown corporations are accountable to Parliament through

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<sup>37</sup> The corporations include 34 parent Crown corporations and 3 wholly-owned subsidiaries directed by orders in council to report as if they were parent Crown corporations.

assigned responsible Ministers. The Governor in Council, the Treasury Board, the Minister of Finance and the Ministers responsible for Crown corporations all have defined responsibilities.

114. The Treasury Board's responsibilities vis-à-vis Crown corporations scheduled in the *Financial Administration Act* include:

- Reviewing the strategic direction of each Crown corporation as presented in its corporate plan and forwarding it to the Governor in Council with a recommendation for approval, if appropriate (although currently the same Ministers making up the Treasury Board also form the Governor in Council with respect to approvals of corporate plans);
- Reviewing proposed decisions or recommendations of a financial nature made by a Minister responsible for a Crown corporation;
- Approving each Crown corporation's capital budget, certain transactions, and, in the case of Crown corporations listed under Schedule III, Part I of the *Financial Administration Act*, their operating budgets and any amendments thereof;<sup>38</sup>
- Approving budgetary appropriations to be put to a vote in Parliament;<sup>39</sup> and
- Reviewing the legal framework set out in the FAA and making regulations for the general governance of Crown corporations.<sup>40</sup>

115. The President of the Treasury Board also tables in Parliament an annual report on all parent Crown corporations and other corporate interests of the Government of Canada, including information on compliance with tabling requirements for summaries and annual reports.<sup>41</sup>

116. The Treasury Board Secretariat works with portfolio groups and others in departments to help departments support their respective Ministers in their responsibilities for Crown corporations by, among other things, providing guidance and interpretation of the *Financial Administration Act* and regulations.

117. The Treasury Board Secretariat has a principal responsibility with respect to Crown corporation corporate plans and budgets of assessing, reviewing, challenging and advising on the merits of the proposed corporate business strategies and resource requirements. The

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<sup>38</sup> See subsections 123(1), (4), (5); and subsections 124(1), (3), (6), (8) of the *Financial Administration Act*, which define Treasury Board responsibilities vis-à-vis the approval process for a Crown corporation's operating or capital budget.

<sup>39</sup> Section 7 of the *Financial Administration Act* provides information on the financial management responsibilities of Treasury Board.

<sup>40</sup> Part X of the *Financial Administration Act* sets out the control and accountability regime for Crown corporations.

<sup>41</sup> FAA, Part X, section 151 states that the President of the Treasury Board shall lay before Parliament an annual consolidated report on the business and activities of all parent Crown corporations. As well, FAA, Part X, section 152 states that the President shall also lay before Parliament a report on the tabling of corporate plan and budget summaries, as well as on the tabling of Crown corporation annual reports before Parliament.

Secretariat ensures that the plans and budgets are consistent with overall government priorities and strategies.<sup>42</sup>

118. Where a parent Crown corporation indicates in a corporate plan an intention to borrow money, the Minister of Finance may require that his recommendation also be obtained before the plan is submitted to the Governor in Council for approval (in practice, the Minister of Finance almost always requires that his recommendation be obtained).

119. For the nine Crown corporations not scheduled in the *Financial Administration Act*, only the individual constituent acts of the corporation govern the roles, responsibilities and accountabilities of the various players, but the relationship between the Treasury Board Secretariat and five corporations is quite similar to the scheduled corporations. The Secretariat has quite a limited relationship with the remaining four Crown corporations (Bank of Canada, Canada Pension Plan Investment Board, Canadian Race Relations Foundation, and the Public Sector Pension Investment Board), although the President of the Treasury Board is the Minister responsible for the last named corporation.

120. The corporate plan and budgets are the centrepiece of the accountability regime adopted by Parliament for Crown corporations. This regime allows Crown corporations greater managerial autonomy than departments in order that they may pursue both commercial and public policy objectives efficiently and effectively with a minimum of government intervention.<sup>43</sup> To balance this greater autonomy, the regime requires Crown corporations to keep the government informed of activities, strategic issues, and plans, and to report regularly on how well the plans were achieved. The annual corporate plan submitted by the corporation permits the Treasury Board to maintain, on behalf of the government, strategic control over the activities of the corporation.

121. Corporate plans should establish a clear link among the strategic issues confronting the corporation, the corporation's objectives for the planning period, and the strategies developed for the achievement of these objectives. They should also contain related performance measures with targets to serve as benchmarks for reviewing results in subsequent corporate plans.<sup>44</sup> TBS Program Sector analysts review corporate plans and work with Crown corporations, on an ongoing basis, to improve the corporate planning process.

122. Finally, in October 2003, the Secretariat made public new *Guidelines for Audit Committees in Crown Corporations and Other Public Entities*.<sup>45</sup> The guidelines address:

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<sup>42</sup> For a description of the contents and purpose of a corporate plan, see *Guidelines on the Preparation of Corporate Plans*, available at [http://www.tbs-sct.gc.ca/pubs\\_pol/ojepubs/tb\\_711/cpgu\\_e.asp](http://www.tbs-sct.gc.ca/pubs_pol/ojepubs/tb_711/cpgu_e.asp).

<sup>43</sup> Section 109 of the *Financial Administration Act* states: "Subject to this Part, the board of directors of a Crown corporation is responsible for the management of the businesses, activities and other affairs of the corporation." Accordingly, the role of Treasury Board as a management board is of more limited application to Crown corporations, than departments and agencies.

<sup>44</sup> TBS published guidelines on the preparation of corporate plans that sets out the expected content of a corporate plan. The *Guidelines for the Preparation of Corporate Plans* (June 1994) are available at: [http://www.tbs-sct.gc.ca/pubs\\_pol/ojepubs/tb\\_711/cpgu\\_e.asp](http://www.tbs-sct.gc.ca/pubs_pol/ojepubs/tb_711/cpgu_e.asp).

<sup>45</sup> The Guidelines are available at: [http://www.tbs-sct.gc.ca/pubs\\_pol/ojepubs/TB\\_71/ccgac-ldse\\_e.asp](http://www.tbs-sct.gc.ca/pubs_pol/ojepubs/TB_71/ccgac-ldse_e.asp).

the responsibilities and duties of audit committees; relying on the work of the auditors; and functioning of the audit committee. They present a framework for individual audit committees to perform their work while underscoring the need for them and their boards of directors to tailor the guidelines to meet their specific needs.

## **PART V - OVERVIEW OF KEY LEGISLATION, REGULATIONS, POLICIES AND GUIDELINES PERTINENT TO SPONSORSHIP AND ADVERTISING ACTIVITIES**

### **Statutes and Regulations**

123. The *Financial Administration Act* provides for the financial administration of the Government of Canada, the establishment and maintenance of the accounts of Canada and the control of Crown corporations. It provides the legislative base for Treasury Board and the Secretariat. Annex F provides excerpts of the key provisions of the FAA.

124. The FAA is also the source for various regulations. Of particular relevance to the Inquiry are the *Payments and Settlements Requisitions Regulations, 1997* and the *Government Contracts Regulations*. Annex F also contains the key provisions of these regulations.

### **Policies**<sup>46</sup>

125. Treasury Board policies are developed by the Secretariat<sup>47</sup> and approved by Treasury Board Ministers as the basic standards applicable to government. They do not have the force of law. Non-compliance does not have the effect of nullifying the contract or action in question. However, policies are generally viewed as mandatory, and there have been instances in which, for example, a contract has been re-tendered because it did not comply with the relevant policies the first time. Some policies also attach guidelines in the form of appendices, adherence to which is encouraged but not required.

126. Some policies use the words “shall” and “must”, which is indicative of a mandatory requirement, while others use the word “should” to indicate direction that is meant to be mere guidance as opposed to a requirement.<sup>48</sup> The Secretariat takes the position that a department may deviate from even a mandatory policy requirement if it obtains permission from Treasury Board to do so. This position is not taken from any written document, but is based on the Secretariat’s view that as the Treasury Board has the authority to issue policies, the Treasury Board can also approve exceptions to or waive compliance with them.

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<sup>46</sup> With respect to all of the policies mentioned in this section and the excerpts provided in the related annexes, it should be noted that the only official versions of the policies are located on the Treasury Board Secretariat’s website and reference should be made to those policies.

<sup>47</sup> Since December 12, 2003, the Public Service Human Resources Management Agency of Canada is responsible for policy development in certain areas related to human resources.

<sup>48</sup> The consistent use of these words is an issue (for example, guidelines sometimes use the verb “must”) and this will be addressed through the ongoing exercise of renewing the policy suite.

### Financial Management

127. The Secretariat has responsibility for supporting the Treasury Board in establishing financial management policies for federal government departments. Accountability for implementing those policies rests with departmental Deputy Ministers and Senior Financial Officers. The policies related to financial management include: *Account Verification; Delegation of Authorities; Interdepartmental Charging and Transfers Between Appropriations; Losses of Money and Offences and Other Illegal Acts Against the Crown; Payment Requisitioning and Payment on Due Date; Responsibilities and Organization for Comptrollership; Commitment Control; and Transfer Payments*. A summary of the key provisions for each of these policies, along with a chronology of their evolution is included in Annexes H-2a) to g).

### Internal Audit

128. The Secretariat has responsibility for supporting the Treasury Board in establishing policies related to internal audit for federal government departments. Accountability for implementing the policy rests with the deputy head of an organization. Annex H-3, Summary of the *Policy on Internal Audit*, provides an overview of the evolution of the policies related to internal audit from 1994 to the current policy.

### The Contracting Policy and Appendices

129. The Treasury Board *Contracting Policy* sets out the obligations in the planning, tendering, approval, awarding, management and monitoring of procurement contracts for goods, services and construction.

130. Annex H-4 traces the evolution of this policy and relevant appendices. Annex H - 4a lists the pertinent policy provisions of the main body and appendices; and Annex H – 4b provides a summary of amendments and dates of changes to Appendix K.

### Human Resources

131. Treasury Board plays a key role in the management of human resources for the part of the public service for which Treasury Board is the employer. As of December 12, 2003, responsibilities for Treasury Board's human resource functions are shared between the Treasury Board Secretariat and the Public Service Human Resources Management Agency of Canada (PSHRMAC). As a result, TBS continues to support TB through labour relations and compensation operations, human resources risk management and pensions and benefits operations. More specifically, TBS is responsible for negotiating with public service bargaining agents, the terms and conditions of work for unionized employees; for determining the compensation of excluded and unrepresented employees; and for managing pension and benefit plans provided for public service employees.

132. The PSHRMAC is now responsible for human resources policies, relating to issues such as executive classification and compensation, public service classification, and employment policies. As such, human resources policies of interest to the Commission of Inquiry such as the *Values and Ethics Code for the Public Service* and the policies outlined below, now fall within the Agency's responsibilities.

133. In July 2003, the *Policy on Organizational Authority and Classification of Executive Group Positions*<sup>49</sup> was introduced, replacing the *Policy on the Delegation of Organizational Authority* of April 1, 1992, the *Policy on the Classification of Executive Group Positions* of February 2, 1995 and the *Policy on the Use of Assistant Deputy Minister and other Assistant Deputy Head Titles* of April 1, 1992, as well as guidelines issued in various letters and bulletins. In this policy, as in its predecessors, departments must seek Treasury Board approval to create or abolish EX-04 or EX-05 positions or change their responsibilities.

134. The *Policy on the Internal Disclosure of Information Concerning Wrongdoing in the Workplace* allows employees to bring forward information concerning wrongdoing, and to ensure that they are treated fairly and are protected from reprisal when they do so in a manner consistent with the policy. In addition, the Government introduced related legislation in Spring 2004. The November 2001 version of the policy was revised to expand the definition of wrongdoing to incorporate a breach of the *Values and Ethics Code for the Public Service* effective on September 1, 2003. A provision in the policy approved March 8, 2004, retroactive to February 10, 2004, ensures protection from reprisal for public servants who provide information and testimony in good faith in the course of a parliamentary proceeding or an inquiry under Part I of the *Inquiries Act* related to the 2003 Report of the Auditor General. See Annex H - 6 for a synopsis of the policy.

#### Other Policies

135. The *Common Services Policy* sets the strategic direction and accountabilities for common service organizations. Thus, in the context of sponsorship and advertising activities, this policy may be of interest to the Commission of Inquiry. A summary is provided as Annex H - 5.

136. All Treasury Board policies are available on the website.

### **PART VI - THE INVOLVEMENT OF TREASURY BOARD AND THE SECRETARIAT RELATED TO THE WORK OF THE COMMISSION**

137. The role of Treasury Board and the Secretariat with respect to sponsorship and advertising activities is partly explained through a review of the submissions submitted to the Board during the 1996 to 2004 period. Also relevant during that period are steps taken by Treasury Board and the Secretariat as a management board, through revisions to relevant policies and addressing issues arising from the conduct of sponsorship and advertising activities. What follows are the details of these interactions which fall into two categories. The first consists of submissions that deal with funding authorities. The second constitutes submissions in which the focus is on a policy or other administrative decisions of the Treasury Board, where no funding decisions are being sought.

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<sup>49</sup> Policy available at: [http://www.tbs-sct.gc.ca/pubs\\_pol/hrpubs/TBM\\_114/oacegp-dprcpg1\\_e.asp](http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/TBM_114/oacegp-dprcpg1_e.asp).



138. With regard to the first category, the submissions identified below consist of those that dealt with incremental funding allocations specifically and directly addressed to either sponsorship or the purchase of advertising<sup>50</sup>. The submissions in this category are also summarised in the table at the end of Annex E. The source of funds for all of these submissions was either the unity reserve or the Budget. There is in practice little material distinction between these two sources, other than the time in the expenditure management cycle at which the decision to allocate additional funds was made.

139. Over the period in question, one of the decisions made as part of each Budget was to earmark funds in the fiscal framework for the purposes of national unity, with allocations from this “reserve” requiring the prior approval of the Prime Minister. This was the source of funds for most of these submissions. The Prime Minister’s approval was communicated to the Treasury Board Secretariat by way of his signature on the Treasury Board submission, through a confirmation letter to the Secretariat from the Privy Council Office, or both.

140. Where decisions to allocate additional funding were made as part of the Budget decision-making process, rather than between Budgets, the source is identified as “the Budget” rather than the unity reserve. The reason for this is that these allocations were accounted for before the size of the earmarked reserve for unity was established and thus did not technically constitute draws on this reserve. The Prime Minister’s approval in these cases was obtained as part of the Budget decision-making process and so no separate confirmation letter or signature on the submission was needed.

141. On September 19, 1996, Treasury Board approved quarterly reports on advertising and public opinion research contracts from PWGSC required under Appendix U to the *Contracting Policy* (TB 824506). As part of this submission, Treasury Board also approved the removal of the requirement for PWGSC to continue with the quarterly reporting, but requested that PWGSC continue to monitor the level of competition and provide information on the contracts in these areas to the public upon request. The reporting requirement was to be reviewed after one year to determine whether it needed to be continued. After a review of the information provided for 1995 and 1996, the Secretariat informed the Treasury Board that there appeared to be a high level of competition and recommended removing the requirement so as to reduce costs for PWGSC and the Secretariat.

142. On November 21, 1996, Treasury Board approved a request from PWGSC to include an item in the 1996-1997 Supplementary Estimates of \$17 million and to increase the 1997-98 reference levels by \$17 million for communication priorities (TB 824628). The source of funds was the unity reserve and the Prime Minister indicated his policy

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<sup>50</sup> Many departments incur expenses for purchasing advertising as a normal part of running their operations. The Treasury Board may consider submissions dealing with funding issues for departmental operations as a whole where advertising costs represent one among a number of costs. Submissions of this sort are not captured in this section. For the purposes of this document, sponsorship activities were limited to those arrangements in which PWGSC provided external organizations with financial resources to support cultural and community events. In exchange, these organizations agreed to provide visibility to the Government of Canada.

approval by signing the submission. In addition, the Privy Council Office provided a memorandum to TBS confirming the Prime Minister's authorization dated June 19, 1996. For the 1996-97 item, additional parliamentary authority was not required because the sum was offset by the release of existing parliamentary spending authorities that had previously been "frozen" in the vote by the Treasury Board.<sup>51</sup> However, the sum of \$17 million for 1997-98 was included in the 1997-1998 Main Estimates approved by Parliament.

143. During this time, unbeknownst to the Secretariat, the Audit and Ethics Branch at PWGSC had undertaken an internal review of certain contracting processes as a result of various issues raised by a PWGSC employee, "the Cutler Investigation". The Secretariat can confirm that it has no record or knowledge of being informed about the existence or results of the Cutler Investigation at the time.

144. The results of the "Cutler Investigation" triggered PWGSC to engage Ernst & Young (E&Y) to conduct an audit. On September 30, 1997, TBS officials received an executive summary of the E&Y audit and PWGSC's management action plan, along with several other documents from PWGSC. While the documents were received in the Secretariat, they were not immediately posted on the TBS website due to an incompatible electronic format; nevertheless, the executive summary of the audit and the management action plan were posted by November 28, 1997.<sup>52</sup> There is no indication that the information that was received was circulated within TBS, including Program Sector analysts. Since that time TBS has established an active notification process to inform program sectors and policy centres of audits and evaluations received by the Secretariat. In 2002, when working with PWGSC in the context of the President's Review (launched in May, 2002), TBS officials were provided with a copy of the full E & Y Report.

145. The *Review Policy*, effective July 1994 and predecessor to the *Policy on Internal Audit*, required that departments identified in Section 2 of the *Financial Administration Act*, ensure that the Treasury Board Secretariat is informed of key review initiatives and that it be provided with copies of reports of key audits, evaluations and other key reviews. The current *Policy on Internal Audit*, effective April 1, 2001, requires that departments ensure that the Treasury Board Secretariat is informed on a timely basis of significant issues of risk, control, or other problems with management practices following their being reported to senior management, and that it is provided in a timely manner with electronic copies of all completed internal audit reports.

146. On November 20, 1997, Treasury Board approved a request from PWGSC to include an item in the 1997-98 Supplementary Estimates of \$18.8 million for communications priorities (TB 825713). The source of funds was the unity reserve, and the Prime Minister indicated his policy approval by signing the submission. In addition, PCO provided a memorandum to TBS confirming the Prime Minister's authorization.

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<sup>51</sup> See Annex E for an explanation of the use of "frozen" allotments to "offset" the need for Supplementary Estimates.

<sup>52</sup> The executive summary and the action plan are available at: [http://www.tbs-sct.gc.ca/rma/database/1det\\_e.asp?id=7527](http://www.tbs-sct.gc.ca/rma/database/1det_e.asp?id=7527).

These funds were approved by Parliament through the 1997-98 Supplementary Estimates B. PWGSC referred to these funds in their 1997-98 Departmental Performance Report. This amount was included as a line item under planned spending for “procurement of sponsorship for media events” in Section III – Financial Performance.

147. On December 11, 1997, Treasury Board approved the Annual Reference Level Update (ARLU) for 1998-99 (TB 825830). The ARLU submission included approval for authority to be delegated to TBS to approve technical adjustments to the ARLU. This delegated authority was used to approve an adjustment for PWGSC in the amount of \$35 million for public relations and the print contract revolving fund. The source of funds was the unity reserve, and the Prime Minister indicated his policy approval in a November 20, 1997 memorandum from PCO to TBS. This memorandum addressed the initial request for \$18 million. A subsequent memorandum was provided on March 20, 1998 from PCO to TBS indicating that the Prime Minister had provided policy approval for an additional allocation of \$17 million from the unity reserve. The item of \$35 million was included under “other operating costs” in the 1998-99 Main Estimates approved by Parliament.

148. On September 24, 1998, Treasury Board approved the creation of a position for an Assistant Deputy Minister, Government of Canada Communications Coordination Services, at the EX-04 level within PWGSC (TB 826505).

149. On December 10, 1998, Treasury Board approved the ARLU for 1999-00 (TB 826841). The Treasury Board Secretariat approved, in accordance with its delegated authority, the inclusion of \$40 million for PWGSC for 1999-00. The source of funds was the fiscal framework pursuant to Budget 1999. The item was included in the 1999-2000 Main Estimates approved by Parliament.

150. On February 18, 1999, Treasury Board approved the 1998-99 Supplementary Estimates C (TB 827020). Included in these Supplementary Estimates was an item of \$5 million for PWGSC for advertising costs associated with Budget 1999. The source of funds was the fiscal framework pursuant to Budget 1999. These funds were approved by Parliament through the 1998-1999 Supplementary Estimates C.

151. On December 9, 1999, Treasury Board approved the 2000-01 ARLU (TB 827730). In accordance with an authority delegated to TBS through this ARLU submission, TBS approved the inclusion of a \$40 million item for PWGSC for sponsorship related activities. The source of funds was the fiscal framework pursuant to Budget 2000. This amount was included in the 2000-02 Main Estimates approved by Parliament.

152. On December 16, 1999, Treasury Board approved the inclusion of an item in the 1999-00 Supplementary Estimates for PWGSC of \$9 million to support the communications priorities of the government (TB 827785). The source of funds was the unity reserve, and the Prime Minister indicated his policy approval by signing the submission. In addition, PCO provided a memorandum to the Secretariat confirming the

Prime Minister's authorization dated December 10, 1999. Additional parliamentary authority for this item was not required because this sum was offset by the release of existing parliamentary spending authorities that had previously been "frozen" in the vote by the Treasury Board.

153. On February 24, 2000, Treasury Board approved the 1999-00 Supplementary Estimates B (TB 827943). As part of these Supplementary Estimates, Treasury Board approved an item for the Department of Finance of \$1 million to cover the costs of the advertising campaign for the 2000 Budget. The source of funds was the unity reserve. PCO provided a memorandum to TBS dated February 28, 2000 confirming the Prime Minister's authorization. Additional parliamentary authority for this item was not required because this sum was offset by the release of existing parliamentary spending authorities that had previously been "frozen" in the vote by the Treasury Board.

154. On March 30, 2000, Treasury Board approved a request from PWGSC to implement the Citizen Information Initiative and the Fairs and Exhibits Initiative (TB 828026). The total cost of the two initiatives was \$72 million over three years (2000-01 to 2002-03). A portion of the funds approved for the Citizen Information Initiative was to purchase advertising in order to outline the government's agenda and priorities and publicise government programs and services. The source of funds for the two initiatives was the fiscal framework pursuant to Budget 2000. The amounts were included in the 2000-01, 2001-02 and 2002-03 Main Estimates approved by Parliament.

155. In March 2000, PWGSC, as part of its internal monitoring program, launched an internal audit of sponsorship activities. This audit revealed inadequate administrative controls for sponsorship activities, and the Secretariat worked with PWGSC in developing a management action plan to respond to the results of this audit. The Secretariat worked with PWGSC throughout the 2000-01 period on the implementation of the management action plan.

156. On January 9, 2001, Treasury Board approved a request from PWGSC to include an item of \$400,000 in the 2000-01 Supplementary Estimates to offset costs associated with the advertising campaign for Bill C-20, the Clarity Act (TB 828401). The source of funds was the unity reserve. PCO provided a memorandum to TBS dated March 6, 2000 confirming the Prime Minister's authorization. Additional parliamentary authority for this item was not required because the sum was offset by the release of existing parliamentary spending authorities that had previously been "frozen" in the vote by the Treasury Board.

157. On February 8, 2001, Treasury Board approved a request from Health Canada to include an item of \$2.1 million in the 2000-01 Supplementary Estimates to cover the costs of federal advertisements on health care in Ontario (TB 828741). The source of funds was the unity reserve. PCO provided a memorandum to TBS dated August 12, 2000 confirming the Prime Minister's authorization. Additional parliamentary authority for this item was not required because the sum was offset by the release of existing

parliamentary spending authorities that had previously been “frozen” in the vote by the Treasury Board.

158. At the same February 8, 2001 meeting, Treasury Board approved the 2001-02 ARLU (TB 828762). As part of this ARLU submission, Treasury Board approved an increase to PWGSC reference levels in 2001-02 and ongoing of \$40 million for sponsorship-related activities. The source of funds was the fiscal framework pursuant to Budget 2000. These amounts were included Main Estimates approved by Parliament.

159. On September 1, 2001, Communication Canada was created. On December 6, 2001, Treasury Board approved the transfer of funds from PWGSC to Communication Canada in the amount of \$75.7 million and additional amounts required for the transition and other costs associated with the transfer of responsibilities (TB 829378). Other items required for the operations of Communication Canada were also approved, including a vote netting authority so that the costs of providing services could be recovered. Communication Canada was provided with a new, discrete vote for the new sponsorship program, which increased the transparency of the use of funds. The Treasury Board also approved amendments to the Common Services Policy to reflect the role of Communication Canada as a common service provider.

160. The Treasury Board introduced a *Policy on the Internal Disclosure of Information Concerning Wrongdoing in the Workplace* and established the Office of the Public Service Integrity Officer, currently headed by Dr. Keyserlingk, effective November 30, 2001.

161. On February 21, 2002, Treasury Board approved the 2001-02 Supplementary Estimates (B) (TB 829617). As part of this submission, Treasury Board approved the inclusion of an item for Communication Canada of \$3.5 million for sponsorship activities. The source of funds was the unity reserve. The Prime Minister’s policy approval was indicated in two memoranda from PCO to TBS dated January 31 and February 12, 2002. These funds were approved by Parliament through the 2001-02 Supplementary Estimates (B).

162. The Secretary of the Treasury Board wrote to Deputy Heads in May 2002, requesting that they review and attest to the adequacy of their control systems in the areas of sponsorship, advertising and public opinion research activities, to the extent that they were involved in these areas. Communication Canada completed a review of its management practices and controls, in response to a request from the Treasury Board Secretariat.

163. A number of reviews were launched in May 2002. At the request of the Prime Minister in a Speech in the House of Commons on May 23, 2002, the President of the Treasury Board launched a forward-looking review of the management regime for sponsorship, advertising and public opinion research. This review led to a report that was brought before the Treasury Board on August 7, 2002.

164. The Treasury Board Secretariat made a presentation to Treasury Board on August 7, 2002 outlining recommendations to improve the management of sponsorship, advertising, and public opinion research activities (TB 829997). The recommendations were developed as a result of three separate reviews conducted by the Secretariat and involving Communication Canada, PWGSC, PCO and other interested departments. The recommendations were guided by the following four principles:

- Value for money;
- Stewardship;
- Flexibility; and
- Transparency.

165. The reviews examined the rationale and scope of activities, the policy framework, delivery mechanisms, current and best practices and lessons from other governments and the private sector. The report on sponsorship<sup>53</sup> recommended: focus on information to citizens; shift to contribution program (not-for-profit); regional allocations and strategic intervention fund; clear terms and conditions; and strengthened management oversight. The report also recommended an audit of the sponsorship contribution program one year after it came into effect. The report on advertising recommended: the maintenance of central coordination; the continued use of contracts but increasing competition; eliminating Appendix Q and integrating advertising into the main body of the Contracting Policy; and strengthened management oversight. The report on advertising also recommended that an audit of advertising activities be completed two years after new procurement tools were put in place.

166. PWGSC also launched an administrative review of its past sponsorship activities. Treasury Board Secretariat was consulted and provided advice with respect to the application of disciplinary measures.

167. On December 12, 2002, the Treasury Board approved the terms and conditions for the new sponsorship program (TB 830145). This included Treasury Board approving the establishment of a new vote for the program. As well, since the new program was to be delivered as a contribution program by public servants as opposed to through procurement contracts, the new program included a specific management focus and accountability regime, as well as commitments for internal audit and evaluation. The program was required to have systems, procedures and resources in place to ensure due diligence in verifying eligibility and entitlement and for the management of the contribution program before any funding decisions could be made.

168. At that same meeting, Treasury Board also approved changes to the *Contracting Policy* and the *Common Services Policy* (TB 830250). The revisions aimed to strengthen and clarify the policies relative to advertising and public opinion research activities to achieve a more effective and competitive approach to contracting for these services. Key policy provisions were incorporated into section 16.13 of the *Contracting Policy* and

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<sup>53</sup> For details see the June 2002 report, "Sponsorship Activities: Proposed Program Redesign".

Appendix Q was eliminated. The new section retained key administrative provisions, such as the requirement for a project number and the use of PWGSC as a common services provider. The section also included a Canadian content provision for a “significant level of Canadian participation” to ensure that the work was completed in Canada, and the market dominance provision was removed. Further, the reference to “co-sponsorship initiatives” was removed from the definition of advertising.

169. In 2003 and 2004, sponsorship funding was tangentially addressed as an issue in the context of considerations about budgetary reductions for fiscal year 2003-2004 and ongoing.

170. In 2003, the Clerk of the Privy Council and the Prime Minister issued a formal document on guidance to Deputy Ministers. The *Management Accountability Framework* was also published which was developed to provide deputy heads and all public service managers with a list of management expectations that reflect current management responsibilities. Furthermore, the Treasury Board issued a *Values and Ethics Code for the Public Service*.<sup>54</sup>

171. Also in 2003, *New Guidelines for Audit Committees in Crown Corporations and Other Public Entities* were made public. In October 2003, the Secretary of the Treasury Board wrote to all departmental Senior Financial Officers to remind them of their responsibilities related to financial management and contracting in line with the *Financial Administration Act* and Treasury Board policies, consistent with the *Guide for Deputy Ministers* and the *Management Accountability Framework*.

172. Furthermore, Bill C-25, the *Public Service Modernization Act*, was passed in 2003. The portion of the Act related to the establishment of the new Canada School of Public Service was recently proclaimed in force. The Canada School of Public Service will strengthen learning and development in the public service. The Secretariat is working with the School and the Public Service Human Resources Management Agency of Canada to develop a core curriculum for the public service.

173. In response to the Auditor General’s government-wide audit, released February 10, 2004, the President of the Treasury Board has been asked to review three specific areas of activity:

- The *Financial Administration Act* relating particularly to:
  - Investigatory powers;
  - Treatment of malfeasance; and
  - Issues around cost recovery and recovery of funds.<sup>55</sup>
- The governance regime for Crown corporations.<sup>56</sup>

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<sup>54</sup> The “Guidance for Deputy Ministers” maybe found at the following link: [http://www.pco-bcp.gc.ca/default.asp?Page=Publications&Language=E&doc=gdm-gsm/gdm-gsm\\_doc\\_e.htm](http://www.pco-bcp.gc.ca/default.asp?Page=Publications&Language=E&doc=gdm-gsm/gdm-gsm_doc_e.htm). The *Values and Ethics Code for Public Service* may be found at the following link: [http://www.tbs-sct.gc.ca/pubs\\_pol/hrpubs/TB\\_851/vec-cve\\_e.asp](http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/TB_851/vec-cve_e.asp).

<sup>55</sup> For further information on this review see Annex J.

- The interface between the political and the public service level.<sup>57</sup>

174. Current expectations are that the three reviews will be completed in the Fall 2004 and will be made public. These are the subject of broad consultations, including with parliamentarians and various experts in these areas.

175. In response to the Auditor General's report, the House of Commons Public Accounts Committee has held hearings and the RCMP has continued its investigations. The Government has taken action: it abolished the sponsorship program; dissolved Communication Canada; appointed Special Counsel to recover funds; and introduced whistleblowing legislation. The government also launched three reviews to be tabled in Parliament as noted above and a Commission of Inquiry into the Sponsorship Program and Advertising Activities.

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<sup>56</sup> For further information on this review see Annex K.

<sup>57</sup> For further information on this review see Annex L.



## ANNEX A

### **A Chronology of the Development of the Treasury Board and its Secretariat**

<b>1867</b>	Treasury Board established to assist Ministers with financial control of federal government.
<b>1878</b>	First independent Auditor General of Canada appointed.
<b>1918</b>	Civil Service Commission set up to promote merit in staffing and classifying public service positions.
<b>1931</b>	Comptroller of Treasury created to help Treasury Board provide assurance that money spent only as authorized by Parliament.
<b>1938</b>	Presentation of government spending estimates revised to provide more clarity on the cost of government activities, and responsibility for them.
<b>1951</b>	<i>Financial Administration Act</i> transfers authority to make final decisions on a broad range of financial and personnel matters from Cabinet to Treasury Board.
<b>1961</b>	<i>Civil Service Act</i> upholds independence of Civil Service Commission, its responsibility to protect merit principle, and its authority over recruitment and promotion.
<b>1962</b>	Royal Commission on Government Organization, headed by J. Grant Glassco, recommends that Civil Service Commission and Treasury Board “let managers manage” by removing some constraints imposed on departments.
<b>1966</b>	Treasury Board Secretariat separates from the Department of Finance; headed by own Minister in order to focus on management of federal government.
<b>1968</b>	<i>Public Service Staff Relations Act</i> gives public service employees right to bargain collectively and strike. Treasury Board responsible for representing government in bargaining.
<b>1969</b>	Position of Comptroller General abolished; <i>Financial Administration Act</i> amended to place primary responsibility for accounting, budgetary and financial control with deputy heads of departments and agencies.
<b>1976</b>	Auditor General reports that Parliament and government are losing control of the public purse.
<b>1977</b>	Auditor General’s mandate expands to include assessing how well government manages its affairs.
<b>1978</b>	Office of the Comptroller General established to report to Treasury Board on financial management, program evaluation, and internal audit in government departments.
<b>1979</b>	Royal Commission on Financial Management and Accountability, chaired by A. Lambert, recommends greater parliamentary scrutiny of government fiscal plans and Estimates. Commission also recommends stronger oversight by Treasury Board as a “board of management” with more capacity to scrutinize department plans.
<b>1985</b>	<i>Access to Information Act</i> and <i>Privacy Act</i> provide Canadians with rights to access government records and to protection of personal information against unauthorized use.
<b>1989</b>	Public Service 2000 set up to renew public service to the public.
<b>1992</b>	Clerk of the Privy Council named head of public service.
<b>1993</b>	Office of the Comptroller General amalgamates with Treasury Board Secretariat; position of Chief Informatics Officer established.
<b>1994</b>	Program Review – a comprehensive review of all government programs to determine best way of delivering them – begins.
<b>1997</b>	Prime Minister names Treasury Board as the government’s management board.
<b>2000</b>	Government releases <i>Results for Canadians</i> , a framework for strengthening management practices across federal government.
<b>2003</b>	Treasury Board Secretariat releases <i>Management Accountability Framework</i> ; a comprehensive model for improved management across public service. <i>Values and Ethics Code for the Public Service</i> also released. <i>Public Service Modernization Act</i> consolidates Treasury Board’s responsibilities as employer. The Public Service Human Resources Management Agency is created to manage implementation of Act; Treasury Board and Secretariat focus on financial oversight.
<b>2004</b>	Budget 2004 announced the Government’s intention to reorganize and bolster the internal audit function on a government-wide basis

**List of Initiatives Included in *Results for Canadians:*  
*A Management Framework for the Government of Canada (2000)***

- **Citizen-Centred Service Delivery:** To improve Canadians' access to a wide range of government services and citizen satisfaction with the quality of those services.
- **Government of Canada On-Line:** To be the government most connected to its citizens and, using information and communications technologies, to provide Canadians with direct, on-line access to its information and services in both official languages.
- **Modern Comptrollership:** To strengthen government-wide policies and processes through more effective decision-making, greater accountability, a mature approach to risk management, results-based control systems, and shared values and ethics.
- **Improved Reporting to Parliament:** To consult with parliamentarians on tailoring information to better meet their needs, improve channels of access and timeliness, and strengthen financial accountability by linking costs to results.
- **Program Integrity:** To identify critical risks to the existing program base for the Treasury Board and Cabinet and recommend strategies that will help departments ensure their continued achievement of results.
- **Developing an Exemplary Workplace:** Fostering public service adherence to values such as integrity, transparency, respect for diversity, and recognition of both official languages.

**Annex C**

**Treasury Board Members  
January 25, 1996 to present**

January 25, 1996 –  
October 3, 1996

Chair:  
The Hon. Marcel Massé

Vice-Chair:  
The Hon. Paul Martin

Members:  
The Hon. Sergio Marchi  
The Hon. Diane Marleau  
The Hon. Douglas Young  
The Hon. Anne McLellan

Alternates:  
The Hon. David Collenette  
The Hon. Jane Stewart  
October 4, 1996 –  
June 10, 1997

Chair:  
The Hon. Marcel Massé  
Vice-Chair:  
The Hon. Paul Martin

Members:  
The Hon. Sergio Marchi  
The Hon. Diane Marleau  
The Hon. Douglas Young  
The Hon. Anne McLellan

Alternates:  
The Hon. Jane Stewart  
The Hon. Pierre Pettigrew

June 11, 1997 –  
November 22, 1998

Chair:  
The Hon. Marcel Massé

Vice-Chair:  
The Hon. Paul Martin

Members:  
The Hon. Arthur Eggleton  
The Hon. Anne McLellan  
The Hon. Alfonso Gagliano  
The Hon. Fred Mifflin

Alternates:  
The Hon. Ralph Goodale  
The Hon. Lucienne Robillard  
The Hon. Don Boudria  
The Hon. Andy Scott

November 23, 1998 –  
August 2, 1999

Chair:  
The Hon. Marcel Massé

Vice-Chair:  
The Hon. Paul Martin

Members:  
The Hon. Arthur Eggleton  
The Hon. Anne McLellan  
The Hon. Alfonso Gagliano  
The Hon. Fred Mifflin

Alternates:  
The Hon. Herb Gray  
The Hon. Ralph Goodale  
The Hon. Lawrence MacAulay  
The Hon. Jane Stewart  
The Hon. Don Boudria

August 3, 1999 –  
October 16, 2000

Chair:

The Hon. Lucienne Robillard

Vice-Chair:

The Hon. Paul Martin

Members:

The Hon. Art Eggleton

The Hon. Alfonso Gagliano

The Hon. Herb Dhaliwal

The Hon. George Baker

Alternates:

The Hon. Herb Gray

The Hon. Ralph Goodale

The Hon. Anne McLellan

The Hon. Lawrence MacAulay

The Hon. Don Boudria

The Hon. Alasdair Graham

The Hon. Elinor Caplan

October 17, 2000 –  
January 8, 2001

Chair:

The Hon. Lucienne Robillard

Vice-Chair:

The Hon. Paul Martin

Members:

The Hon. Brian Tobin

The Hon. Art Eggleton

The Hon. Alfonso Gagliano

The Hon. Herb Dhaliwal

Alternates:

The Hon. Herb Gray

The Hon. Ralph Goodale

The Hon. Anne McLellan

The Hon. Lawrence MacAulay

The Hon. Don Boudria

The Hon. Elinor Caplan

The Hon. Bernard Boudreau

January 9, 2001 –  
January 14, 2002

Chair:  
The Hon. Lucienne Robillard

Vice-Chair:  
The Hon. Paul Martin

Members:  
The Hon. Brian Tobin  
The Hon. Art Eggleton  
The Hon. Alfonso Gagliano  
The Hon. Herb Dhaliwal

Alternates:  
The Hon. Herb Gray  
The Hon. Ralph Goodale  
The Hon. Anne McLellan  
The Hon. Lawrence MacAulay  
The Hon. Don Boudria  
The Hon. Elinor Caplan  
The Hon. Sharon Carstairs

January 15, 2002 –  
May 25, 2002

Chair:  
The Hon. Lucienne Robillard

Vice-Chair:  
The Hon. Paul Martin

Members:  
The Hon. John Manley  
The Hon. Arthur Eggleton  
The Hon. Don Boudria  
The Hon. Gerry Byrne

Alternates:  
The Hon. Anne McLellan  
The Hon. Allan Rock  
The Hon. Lawrence MacAulay  
The Hon. Herb Dhaliwal  
The Hon. Elinor Caplan  
The Hon. Sharon Carstairs

May 26, 2002 –  
June 1, 2002

Chair:

The Hon. Lucienne Robillard

Vice-Chair:

The Hon. Paul Martin

Members:

The Hon. Ralph Goodale

The Hon. John Manley

The Hon. Gerry Byrne

The Hon. John McCallum

Alternates:

The Hon. Anne McLellan

The Hon. Allan Rock

The Hon. Lawrence MacAulay

The Hon. Herb Dhaliwal

The Hon. Elinor Caplan

The Hon. Sharon Carstairs

June 2, 2002 –  
August 1, 2002

Chair:

The Hon. Lucienne Robillard

Vice-Chair:

The Hon. John Manley

Members:

The Hon. Ralph Goodale

The Hon. John McCallum

The Hon. Herb Dhaliwal

The Hon. Gerry Byrne

Alternates:

The Hon. Anne McLellan

The Hon. Allan Rock

The Hon. Lawrence MacAulay

The Hon. Elinor Caplan

The Hon. Don Boudria

The Hon. Sharon Carstairs

August 6, 2002 –  
Oct 21, 2002

Chair:

The Hon. Lucienne Robillard

Vice-Chair:

The Hon. John Manley

Members:

The Hon. Ralph Goodale

The Hon. Don Boudria

The Hon. Gerry Byrne

The Hon. John McCallum

Alternates:

The Hon. Anne McLellan

The Hon. Allan Rock

The Hon. Lawrence MacAulay

The Hon. Elinor Caplan

The Hon. Herb Dhaliwal

The Hon. Sharon Carstairs

Oct 22, 2002 –

Dec 11, 2003

Chair:

The Hon. Lucienne Robillard

Vice-Chair:

The Hon. John Manley

Members:

The Hon. Ralph Goodale

The Hon. Don Boudria

The Hon. Gerry Byrne

The Hon. John McCallum

Alternates:

The Hon. Anne McLellan

The Hon. Allan Rock

The Hon. Herb Dhaliwal

The Hon. Elinor Caplan

The Hon. Sharon Carstairs

The Hon. Wayne Easter



Dec 12, 2003 –  
July 19, 2004

Chair:

The Hon. Reginald Alcock

Vice-Chair:

The Hon. Ralph Goodale

Members:

The Hon. Lucienne Robillard

The Hon. Denis Coderre

The Hon. Stephen Owen

The Hon. Stan Kazmierczak Keyes

Alternates:

The Hon. James Scott Peterson

The Hon. Irwin Cotler

The Hon. Denis Paradis

Ex-officio:

The Hon. Anne McLellan

The Hon. Jacques Saada

July 20, 2004 –  
to present

Chair:

The Hon. Reginald Alcock

Vice-Chair:

The Hon. Ralph Goodale

Members:

The Hon. Lucienne Robillard

The Hon. Scott Brison

The Hon. David Emerson

The Hon. John McCallum

Alternates:

The Hon. Stéphane Dion

The Hon. James Scott Peterson

The Hon. Tony Valeri

**Secretariat Organization – Proposed Structure (June 2004)**

The Secretariat was reorganized in June 2004 to meet a number of objectives including:

- Ensuring that TBS is organized to deliver on its responsibilities;
- Strengthening effective oversight;
- Providing more integrated data and information analysis;
- Promoting greater internal and external coherence;
- Defining clear accountabilities and minimizing overlap and duplication; and
- Re-balancing workload and resources.

The reorganization became effective in June and is to be fully implemented by early September. Treasury Board approval will be required for the proposed new structure.

**SECRETARY (*Jim Judd*)**

**PROGRAM SECTORS**

<b><u>Economic Sector (<i>Daphne Meredith</i>)</u></b> <ul style="list-style-type: none"><li>➤ Agriculture &amp; Agri-food Canada</li><li>➤ Environment Canada</li><li>➤ Fisheries &amp; Oceans Canada</li><li>➤ Industry Canada (Science, Regional Development)</li><li>➤ Natural Resources Canada</li><li>➤ Regulatory Issues</li><li>➤ Statistics Canada</li><li>➤ Transport Canada</li></ul>	<b><u>International, Security and Justice Sector (<i>Susan Cartwright</i>)</u></b> <ul style="list-style-type: none"><li>➤ Canadian International Development Agency</li><li>➤ Foreign Affairs</li><li>➤ Immigration and Refugee Board</li><li>➤ International Trade</li><li>➤ Justice</li><li>➤ National Defence</li><li>➤ Public Safety and Emergency Preparedness (Canada Border Services Agency, Canada Firearms Centre, Correctional Services Canada, RCMP)</li></ul>
<b><u>Social &amp; Cultural Sector (<i>Bill Austin</i>)</u></b> <ul style="list-style-type: none"><li>➤ Canadian Heritage (Multiculturalism, Sports)</li><li>➤ Health Canada</li><li>➤ Human Resources and Skills Development</li><li>➤ Indian Affairs and Northern Development</li><li>➤ Social Development Canada</li><li>➤ Veterans Affairs</li></ul>	<b><u>Government Operations Sector (<i>A/Susan Cartwright</i>)</u></b> <ul style="list-style-type: none"><li>➤ Agents of Parliament</li><li>➤ Canada School of Public Service</li><li>➤ Crown Corporation Policy and Operations</li><li>➤ Finance</li><li>➤ Privy Council</li><li>➤ Public Service Human Resources Management Agency of Canada</li><li>➤ Public Service Commission</li><li>➤ Public Works and Government Services Canada</li><li>➤ Small Agencies</li><li>➤ Treasury Board Secretariat</li></ul>

## OTHER SECTORS

<p><b><u>Expenditure Operations &amp; Reporting (Mike Joyce)</u></b></p> <ul style="list-style-type: none"> <li>➤ Expenditure Strategies</li> <li>➤ Manages Access to Framework Reserves</li> <li>➤ Development, Planning and Coordination of Specific TBS Expenditure Management Initiatives</li> <li>➤ Estimates Operations</li> <li>➤ Reports on Plans and Priorities</li> <li>➤ Departmental Performance Reports</li> <li>➤ Canada's Performance Report</li> <li>➤ Results Based Management</li> </ul>	<p><b><u>Management Policy &amp; Labour Relations (Brent DiBartolo)</u></b></p> <ul style="list-style-type: none"> <li>➤ Procurement &amp; Project Management</li> <li>➤ Real Property &amp; Materiel</li> <li>➤ Risk Management &amp; Comptrollership Modernization</li> <li>➤ Labour Relations &amp; Compensation Operations</li> <li>➤ HR Management</li> <li>➤ Pensions &amp; Benefits</li> </ul>
<p><b><u>Expenditure Policy &amp; Analysis (Kevin Page)</u></b></p> <ul style="list-style-type: none"> <li>➤ Expenditure Policy</li> <li>➤ Expenditure Research</li> <li>➤ Expenditure Analysis (+ Compensation Planning Unit)</li> <li>➤ Expenditure Management Information System</li> </ul>	<p><b><u>Office of the Comptroller General (Charles-Antoine St-Jean)</u></b></p> <ul style="list-style-type: none"> <li>➤ Financial Management and Accounting Policy</li> <li>➤ Financial Systems Infrastructure</li> <li>➤ Internal Audit</li> <li>➤ Oversight and Development of Financial Management and Audit Communities</li> <li>➤ Development of Capacity for Audit Operations for Small Agencies</li> </ul>
<p><b><u>Strategic Policy &amp; Communications (Georges Rioux)</u></b></p> <ul style="list-style-type: none"> <li>➤ Coordination of Corporate Policy, Communications &amp; Strategic Planning</li> <li>➤ Support for Federal Regional Councils</li> <li>➤ Coordination of Briefing Support to President for Cabinet Meetings &amp; Parliamentary Affairs</li> <li>➤ Coordination of TBS &amp; Ministerial Correspondence; Submissions; ERC Operations</li> <li>➤ ATIP</li> <li>➤ Internal &amp; External Communications</li> <li>➤ Corporate Learning &amp; Knowledge Management</li> <li>➤ Secretariat Functions for TBS</li> </ul>	<p><b><u>Chief Information Officer's Branch (Helen McDonald)</u></b></p> <p><b><u>Corporate Services Branch (Dennis Kam)</u></b></p> <p><b><u>Legal Services (Mylène Bouzigon)</u></b></p> <p><b><u>Expenditure Management and Review Teams</u></b></p>

## **Expenditure Management**

1. Tables E-1a to E-1c depict the federal government's overall expenditure management cycle, which is described more fully in the evidence document submitted by the Department of Finance to this Commission. This Annex focuses on the role played by Treasury Board, within this expenditure management system by describing how it allocates resources to department, as follows:

- The regular annual processes by which Treasury Board approves departmental spending budgets and develops the Main Estimates for Parliament;
- The equivalent processes that Treasury Board uses to approve adjustments to annually approved departmental spending levels between Main Estimates;
- The processes departments use to request incremental funding;
- How departmental spending is controlled and how departments are able to reallocate funds; and
- A summary of how these processes apply in the case of the specific expenditure management transactions that provided incremental funding for sponsorship and advertising activities.

### Annual Approval of Departmental Spending

2. Each fall (usually October or November), departments make a submission to TB seeking annual approval of departmental budgets ("reference levels") through the Annual Reference Level Update (ARLU) process.<sup>1</sup> This is primarily a technical exercise that updates departmental funding levels for the next fiscal year as well as the two years after that. Because of the largely technical nature of the process and the close to 100 ARLU submissions involved, the Treasury Board Secretariat provides a detailed report to Treasury Board of its assessment and recommendations that forms the basis for Treasury Board consideration – this is referred to as an omnibus submission.<sup>2</sup>

3. The ARLU process is not generally a mechanism for departments to seek new funding approvals, but rather is an exercise that recognizes incremental approvals given since the previous year. The ARLU is also the process by which departments can seek resource (vote) transfers, re-profiling, technical corrections/adjustments, a limited number of recurring non-discretionary adjustments (e.g. costs associated with increased inmate populations in federal penitentiaries) and requests for certain routine authorities related to reference level adjustments. Criteria for items that can be approved in the omnibus submission are outlined in the "General Instructions for ARLU Preparation" as part of the ARLU call letter sent out by TBS every year.

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<sup>1</sup> See Annex G for a review of the role of the Program Analyst in this process.

<sup>2</sup> See p. 17 of the main body of this document for a description of the categories of submissions to the Treasury Board.

4. The ARLU exercise provides the basis for the Main Estimates and the Direct Program Spending that is part of the government's expenditure plan (Budget/Fiscal Framework). Estimates for the new fiscal year must be tabled in the House on or before March 1 of the current fiscal year, in accordance with Standing Order 81(4).

5. Because of the lead time required to produce the Main Estimates it is necessary for the major part of the reference level decisions to be locked in before January and for that reason the Secretariat's omnibus ARLU submission to Treasury Board is typically made in mid-December. Locking in numbers at this point in the cycle is not an issue for most of the reference level data, given the largely technical nature of the ARLU process. Long-standing practice has also been for the Secretariat to seek, in its ARLU submission, delegated authority from Treasury Board to the Secretariat to make subsequent "technical adjustments" to the reference level data that Treasury Board is being asked to approve. In addition to the correction of any errors that may be found and refinement of technical calculations that affect some of the numbers, this technical authority also allows for the possibility of including some Budget decisions that become known to the Secretariat in time for inclusion in Main Estimates. The primary criterion for using this delegated authority is that the change raises no issues that would warrant individual Treasury Board consideration (i.e. if the issue were to be dealt with in a separate submission, the Secretariat's assessment would raise no issues or concerns and would recommend approval of the incremental funding as a matter of routine).

6. Because of Main Estimates production constraints and limited capacity to deal with any significant number of changes after the ARLU submission has been approved by the Treasury Board, most Budget decisions that become known post-ARLU are dealt with in Supplementary Estimates.

7. TBS coordinates the preparation of Estimate documents, which are used to provide information to Parliament in support of supply legislation, and which results in Parliament granting spending authority. There are three parts to the Main Estimates documents:

- Part I - The Government Expenditure Plan;
- Part II - The Main Estimates; and
- Part III - Departmental Expenditure Plans (includes Report on Plans and Priorities and Departmental Performance Reports).

8. Reports on Plans and Priorities (RPP) provide a high-level overview of the departments' plans and priority areas for the next fiscal year. The RPP gives an overview of the department, including a description of the mandate, business lines and strategic outcomes. The strategic outcomes have planned spending figures attributed to them to demonstrate how the department intends to allocate its resources to meet its mandate. The RPPs are tabled one month after the end of the February tabling date for the Main Estimates set by House Standing Orders in order to permit incorporation of decisions announced in the Budget. Typically, the Budget is tabled in the last week of February,

which, because of Budget secrecy, does not allow for the full spending plans articulated in the Budget to be incorporated into the Main Estimates.

9. There are two supply bills dealing with Main Estimates during the year.<sup>58</sup> Interim supply, voted by Parliament before the end of the last supply period (March 26), authorizes a portion of departments' annual appropriations necessary to provide for ongoing operations until Parliament approves full supply, normally before the end of the first supply period (June 23).

#### Approval of Increases to Departmental Spending Between Main Estimates

10. Increases to departments' approved spending levels that are made "off-cycle" or between Main Estimates follow equivalent process steps to those described above for the annual cycle. Treasury Board approval is usually sought by a department through a separate submission, or through the satisfaction of a condition established by Treasury Board in its decision on a previous submission. The Secretariat prepares an "omnibus" submission to Treasury Board that summarises all the incremental funding approvals to be included in a Supplementary Estimate and seeks Treasury Board's approval to proceed with development and tabling of the Supplementary Estimate and associated supply legislation.

11. Two "regular" Supplementary Estimates are normally tabled, one in the fall and the second in March.<sup>59</sup> These seek Parliamentary approval of changes to departmental spending plans within the current fiscal year, not included in the Main Estimates. Parliament approves supplementary supply legislation before the end of the second supply period (December 10) for the first regular Supplementary Estimates and before the end of the third supply period (March 26) for final Supplementary Estimates.

12. The government also has the option of tabling a Supplementary Estimate to coincide with the first "supply period" that ends in June. This "early" Supplementary Estimate has typically been used to seek parliamentary approval for large expenditures associated with new policy items announced in the Budget for which early implementation action is needed.

13. In addition to authorizing spending not included in Main Estimates, Supplementary Estimates are also used for vote transfers, new programs, debt write-offs, loan guarantees, new or increased grants, and authorized changes to legislation.

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<sup>58</sup> The House of Commons allocates a total of twenty-one days to deal with the business of Supply in each annual cycle. The House of Commons Standing Orders divide this annual cycle into three supply periods with seven supply days being allotted to each supply period.

House of Commons Standing Order 81, provides for Appropriation Bills to be introduced in the House on the last allotted day in each of the three supply periods and for these Bills to be dealt with through a special or "expedited" process which permits passage of the legislation in a single sitting.

<sup>59</sup> See Annex G for a review of the role of the Program Analyst in the Supplementary Estimates process.

14. Long-standing practice has been to seek parliamentary authority to supplement votes only to the extent that is necessary. Where, for instance, Treasury Board has set up “frozen allotments” to prevent departments from using parliamentary spending authority in excess of TB approved levels,<sup>60</sup> these “frozen” authorities can be released to offset, in whole or in part, the need for Parliament to supplement these votes. In certain cases this can eliminate the need for including items in Supplementary Estimates. Table E-2 shows a simplified example of this offset process. While this long-standing practice is efficient in terms of reducing the administrative burden of the Supplementary Estimates process, it is one that TBS is reviewing in an effort to heighten transparency for Parliamentarians.

#### Executive Process for Departments, Agencies and Crowns to Request Incremental Funding

15. The exact nature of the process depends on whether resources are being allocated:
- To achieve new policy objectives or to enrich delivery of an existing policy; or
  - For the ongoing delivery of existing programs.

#### *New or Enriched Policy Funding*

16. There are two prerequisites before the appropriate Minister can seek Treasury Board approval for incremental new or enriched policy funding. The first is that “policy” approval has been obtained i.e. approval to implement the new or enriched policy. The second is that, where incremental funds are necessary to achieve the new or enriched policy objectives, an approved source of funds has been identified.

17. “Policy” approval to implement new initiatives is given through the Cabinet policy committee process based on Memoranda to Cabinet (MCs) submitted by the appropriate Minister or Ministers. In some cases these decisions form part of the Budget development process and are incorporated into the Budget. In other cases, the Budget may “ earmark” funds in the fiscal framework in anticipation that a policy implementation decision may follow. In the case of an enrichment to an existing program there may be no need for a subsequent Cabinet policy implementation decision, with Treasury Board making the allocation decision based on a Budget decision to earmark the funds for a specific purpose.

18. Responsibility for approving sources of funds for new or enriched policy initiatives lies with the Prime Minister and the Minister of Finance. This responsibility is normally exercised through decisions on the fiscal framework that underpin the budget. The Prime Minister and the Minister of Finance may also approve additional “policy” funding between Budgets through subsequent updates and adjustments to the fiscal framework.

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<sup>60</sup> See section on “Expenditure Controls and the Internal Reallocation of Funds” below.

### *Ongoing Delivery of Existing Programs*

19. In the case of existing programs, Treasury Board is responsible for making resource allocation decisions without reference to the Cabinet policy decision-making process<sup>61</sup>. In addition to its annual decisions on department and agency budgets or “reference levels”, Treasury Board may also consider allocating additional resources from funds that have been set aside in the fiscal framework for specific purposes related to Treasury Board’s expenditure management responsibilities. Such examples include:

- Situations where there are urgent issues relating to health, safety or the integrity of an existing program and where the consequences of reallocation from existing reference levels are considered unacceptable;
- Investments to improve the efficiency or effectiveness with which existing programs deliver their required results;
- Additional funding required as the result of negotiation of collective agreements with unions; and
- Budget decisions to earmark funds to enrich an existing program that does not warrant any subsequent Cabinet policy committee consideration.

### Expenditure Controls and the Internal Reallocation of Funds

20. Departments and agencies are subject to two broad levels of control over the funds that form part of their approved budgets. Parliament exercises control through votes, and the TB exercises control on behalf of the executive through a variety of mechanisms, particularly through allotment control.

21. Parliament exercises control over the spending approval that it grants through the “vote” structure established for each department and agency. Subject to thresholds in terms of the amount of spending authority contained, there may be separate votes for operating, capital and transfer payments (grants and contributions). In terms of parliamentary control, a department is free to reallocate funds available within an individual vote, provided the revised expenditure plans are consistent with that department’s legislated mandate and the purpose of the vote<sup>62</sup>. For instance, a department may reallocate planned operating expenditures between different activities without seeking parliamentary approval. By contrast, parliamentary approval is required to reallocate funds between votes – from transfer payments to operating, for instance. Similarly, parliamentary approval is required for reallocation between departments – from the operating vote of one department to the operating vote of another, for instance. Where it is needed, parliamentary approval of in-year reallocations between votes is sought through Supplementary Estimates.

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<sup>61</sup> An exception could be in the case where the actual or potential impact of a resource allocation or reallocation decision requires reconsideration of the original policy.

<sup>62</sup> The “vote wording” forms part of the supply legislation approved by Parliament and describes the specific purposes for which Parliament is approving the amount of money attached to each vote.



22. At the executive level, Treasury Board must approve any reallocations between votes being sought from Parliament and, in addition, may exercise an additional degree of control over departments' approved funding levels. Broadly speaking, it does this either by means of specific conditions attached to individual Treasury Board decisions or by way of establishing "allotments" within the votes approved by Parliament. An example of control by way of a condition attached to a specific decision might be a decision to allocate only a portion of incremental new policy funds with allocation of the remainder conditional on the provision of further information or analysis.

23. Allotment controls are used for two broad purposes. The first is by way of a "special purpose" allotment where Treasury Board restricts use of a portion of funds within a vote to a specific purpose. One use of this type of allotment is for personnel costs within an operating vote because any increase by a department above planned spending levels would attract increased benefit plan costs that are funded centrally. Another is where Treasury Board wishes to ensure that a portion of funds within a vote is spent on a specific purpose and is not available for reallocation without TB approval. The second type is a "frozen" allotment where Treasury Board acts to reduce a department's access to the full spending authority provided by Parliament in a particular vote. This action is predominantly used where Treasury Board takes action to reduce previously approved funding levels or approves reallocation between votes or between fiscal years (where the frozen allotment is established in the vote providing the funds for reallocation). Occasionally, frozen allotments are created pending a department's fulfillment of an outstanding condition imposed by Treasury Board.

24. Within these controls, departments are free to reallocate. And as the government actively encourages reallocation as a means of dealing with incremental spending pressures, Treasury Board regularly considers departmental requests to change these control points to permit reallocation to deal with changing priorities that departments face.

25. In addition to the vote structure, information in Estimates documents is displayed according to business lines within each department and agency, but this breakdown is for purposes of information and accountability and neither Parliament nor Treasury Board controls expenditures by business line. Each year (as part of the Estimates documents), departments prepare Departmental Performance Reports (DPR) to report on performance (both successes and shortcomings) for the previous fiscal year in relation to the plans set out in the Reports on Plans and Priorities (RPP). If significant reallocation took place during the year, the department would be expected to identify such change in its DPR.

#### Sponsorship and Advertising Expenditure Management Transactions

26. Expenditure management transactions related to sponsorship and purchased advertising fall into three broad categories:

1. Through the annual approval of departmental reference levels;
2. Through incremental funding to enrich existing programs; and
3. Through internal reallocation within a department or agency.

### *Through Reference Levels*

27. During the period being investigated, the government's sponsorship activities were undertaken predominantly, though not necessarily exclusively, within the department of Public Works and Government Services. These activities did not constitute either a discrete business line or an individual program<sup>63</sup> as the amount of expenditures and the significance of the activities were not material relative to those of the department as a whole. In addition, it is possible that other departments may have engaged in advertising or sponsorship-like activities in what would amount to an incidental part of their regular program delivery activities. For these reasons, other than those transactions identified in Table E-3, the Treasury Board would not, as part of its annual approval of departmental reference levels, have approved any funding specifically for sponsorship activities.

### *Through Incremental Enrichment Funding*

28. As indicated earlier, incremental funding provided specifically to enrich sponsorship or purchased advertising activities would be considered policy decisions for which policy approval would be required, a source of funds would need to be identified, Treasury Board approval would be needed and Parliamentary expenditure authority would need to be sought either through Main or Supplementary Estimates.

29. There were thirteen such transactions over the period 1996 – 2004. For eight of these transactions, the source of funds was the unity reserve. This reserve constituted funds earmarked in the fiscal framework as part of the Budget decision-making process to provide a source of enrichment funding for activities related to national unity, with allocations subject to approval of the Prime Minister. In the case of the other five transactions, the specific allocation decisions were made as part of the Budget decision-making process. The table below summarizes the key process steps for each of these transactions. Furthermore, Part VI of the TBS report prepared for the Commission of Inquiry summarises in detail the various submissions that came before Treasury Board during the relevant time period.

### *Through Internal Reallocation*

30. Public Works and Government Services, as well as any other department would be free to allocate and reallocate funds to advertising or sponsorship activities as part of their overall management of the programs of which these activities formed part. Over the period 1996-2004, there were no such requests for reallocation decisions that required either Treasury Board or parliamentary approval.

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<sup>63</sup> Program in this instance refers to a formal framework for organizing and undertaking activities so as to achieve a specific and defined set of objectives.

**TABLE E-1a****OVERVIEW OF EMS KEY EVENTS & PROCESS**

<b>TBS</b>	<b>Treasury Board</b>	<b>Parliament</b>	<b>Supply Periods</b>
Annual Reference Level Update (ARLU) (Sep – Nov)	Approval of Omnibus Submission (Nov)	None	
First Regular Supplementary Estimates (Sep – Oct)	Approval of Omnibus Submission (Oct) President of TB Tables	Tabled in Parliament (early Nov) Review by Standing Committees	June 23 – Dec 10
Supply Bill Prepared		Approve Supply Bill (early Dec)	
Preparation of Departmental Performance Reports (DPRs) and Public Accounts (May – Sep) • Reports on previous Fiscal Year	President of TB tables on behalf of other Ministers	Tabled in Parliament (late Oct) Review by Standing Committees	
Main Estimates (Dec – Feb)	President of TB tables	Tabled in Parliament (end Feb) Review by standing committees	Dec 10 – Mar 26
Supply Bill Prepared		Approve Interim Supply Bill (late Mar)	
Preparation of Reports on Plans & Priorities (RPPs) (Sep – Feb)	President of TB tables on behalf of other Ministers	Tabled in Parliament (end Mar) Review by Standing Committees in support of ME (end May)	
Final Supplementary Estimates (Jan – Mar)	Approval of Omnibus Submission (Feb) President of TB tables	Tabled in Parliament (late Feb - early Mar) Review by Standing Committees	Dec 10 – Mar 26
Final Supply Bill Prepared	President of TB appears before SNFC	Approve Final Supply Bill (early June)	Mar 26 - June 23

**TYPICAL SUPPLY CALENDAR**

## Main Estimates and Interim Supply

On or before March 1	Main Estimates tabled in the House.
Last allotted day, period ending March 26	The House passes the Interim Supply Bill for fiscal year commencing April 1.
Before March 31	The Senate passes the Interim Supply Bill, Royal Assent is given, and a Governor General Warrant is issued providing the necessary spending authority.
March to May	House Standing Committees consider individual department and agency Estimates Ministers and/or officials invited as witnesses.
Typically in early March	Assistant Secretary, EORS & Executive Director, EOED appear as witnesses for the Senate National Finance Committee.
Typically in late May	President appears as witness for the Senate National Finance Committee.
Not later than May 31	House Standing Committees report, or are deemed to have reported, for individual department Estimates (except for a single department selected by the opposition).
Last allotted day in the supply period ending June 23	House Full Supply debate, full supply Appropriation Bill passed.
By end of June	Senate passes full supply Appropriation Bill, Royal Assent is given and a Governor General Warrant is issued providing the necessary spending authority.

**TYPICAL SUPPLY CALENDAR**

## First Regular Supplementary Estimates

November	First "regular" Supplementary Estimates are tabled in Parliament.
Late November	Assistant Secretary, EORS & Executive Director, EOED appear as witnesses for the Senate National Finance Committee.
Last allotted day in the supply period ending December 10	The House passes the Appropriation Bill for Supplementary Estimates.
Typically early/mid December	The Senate passes the Supplementary Estimate Appropriation Bill, Royal Assent is given and a Governor General Warrant is issued providing the necessary spending authority.

## Final Supplementary Estimates

Early March	Final Supplementary Estimates are presented to Parliament.
Last allotted day in the supply period ending March 26	The House passes the Appropriation Bill for Supplementary Estimates (in conjunction with the Appropriation Bill for Interim Supply).
Mid March	Assistant Secretary, EORS & Executive Director, EOED appear as witnesses for the Senate National Finance Committee.
Before March 31	The Senate passes the final Supplementary Estimates Appropriation Bill, Royal Assent is given, and a Governor General Warrant is issued providing the necessary spending authority.

**TABLE E-2**

**Supplementary Estimates and the Use of Offsets  
- Simplified Example**

**1. Starting Point**

	<b>\$M</b>
<b><i>Treasury Board Approved 'Reference Levels'</i></b>	
Operating Budget	400
<b>Total TB approved reference levels</b>	<b>400</b>
<b><i>Parliamentary Spending Authority displayed in Main Estimates</i></b>	
<u>Vote 1</u>	
Operating Budget	400
<b>Total Parliamentary Authority</b>	<b>400</b>

**2. Transaction #1**

Treasury Board approval to reprofile \$50M in operating from 2004-2005 to 2005-2006

<b><i>Treasury Board Approved 'Reference Levels'</i></b>	
Operating Budget	
Starting Reference Level	400
Frozen Allotment (Vote 1)	(50)
<b>Total TB spending authority available</b>	<b>350</b>
<b><i>Parliamentary Spending Authority displayed in Main Estimates</i></b>	
<u>Vote 1</u>	
Operating Budget	400
<b>Total Parliamentary Authority</b>	<b>400</b>

**3. Transaction #2**

Treasury Board approval to increase operating funding by \$50M

<b><i>Treasury Board Approved 'Reference Levels'</i></b>	
<u>Operating Budget</u>	
Starting Reference Level	400
Frozen Allotment (Vote 1)	(50)
Release of frozen allotment in lieu of Supplementary Estimates (A) item (Vote 1)	50
<b>Total TB spending authority available</b>	<b>400</b>
<b><i>Parliamentary Spending Authority displayed in Main Estimates</i></b>	
<u>Vote 1</u>	
Operating Budget	400
<b>Total Parliamentary Authority</b>	<b>400</b>

**Note: No item to be printed in Supplementary Estimates (A)**

**TABLE E-3****TABLE OF TREASURY BOARD SUBMISSIONS APPROVING ALLOCATIONS RELATED TO SPONSORSHIP AND ADVERTISING**

<b>Treasury Board #</b>	<b>Policy Approval<sup>1</sup></b>	<b>Source of Funds</b>	<b>TB Approval<sup>2</sup></b>	<b>Allocation \$ millions</b>	<b>Parliamentary Approval<sup>3</sup></b>
824628 21-11-96  Communications Priorities	Prime Minister (TB submission & PCO confirmation)	Unity Reserve	Separate submission  Appendix case	17.0 (96-97)  17.0 (97-98)	Offset – no Supplementary Estimate required. Main Estimates
825713 20-11-97  Communications Priorities	Prime Minister (TB submission & PCO confirmation)	Unity Reserve	Separate submission  Appendix case	18.8 (97-98)	Supplementary Estimates B
825830 11-12-97	Prime Minister (PCO confirmation)	Unity Reserve	ARLU (delegated authority)  Carry case	35.0 (98-99)	Main Estimates
826841 10-12-98	Prime Minister (Budget decision)	Budget 1999	ARLU (delegated authority)  Appendix case	40.0 (99-00)	Main Estimates
827020 18-02-99  Budget 1999 Advertising	Prime Minister (Budget decision)	Budget 1999	Supplementary Estimates C Submission  Appendix case	5.0 (98-99)	Supplementary Estimates C
827730 09-12-99	Prime Minister (Budget decision)	Budget 2000	ARLU (delegated authority)  Appendix case	40.0 (00-01)	Main Estimates

<sup>1</sup> Policy approval was given by the Prime Minister by the Prime Minister's signature on the TB submission or confirmed by PCO through a memorandum to TBS (or both), or through the Budget approval process

<sup>2</sup> Treasury Board's approval was either given by approval of a separate TB submission from a department, or through one of the following submissions prepared by TBS: approval of specific authorities through a Supplementary Estimates Omnibus submission; approval of specific authorities through the Annual Reference Level Update (ARLU) submission; or approval of an authority delegated to TBS through the ARLU submission.

<sup>3</sup> Parliamentary approval was given through Main or Supplementary Estimates. In those cases where an unused Parliamentary authority already existed, this authority was used to fully or partially offset the new requirement.

827785 16-12-99  Communications Priorities	Prime Minister (TB submission & PCO confirmation)	Unity Reserve	Separate submission  Appendix case	9.0 (99-00)	Offset – no Supplementary Estimate required
827943 24-02-00  Budget 2000 Advertising	Prime Minister (PCO confirmation)	Unity Reserve	Supplementary Estimates Submission  Consider case	1.0 (99-00)	Offset – no Supplementary Estimate required
828026 30-03-00  Citizen Information Initiative	Prime Minister (Budget decision)	Budget 2000	Separate submission  Appendix case	24.0 (00- 01) 24.0 (01- 02) 24.0 (02- 03)	Main Estimates Main Estimates Main Estimates
828401 09-01-01  Clarity Bill	Prime Minister (PCO confirmation)	Unity Reserve	Separate submission  Appendix case	0.4 (00-01)	Offset – no Supplementary Estimate required
828741 08-02-01  Ontario Health Advertising	Prime Minister (PCO confirmation)	Unity Reserve	Separate submission  Appendix case	2.1 (00-01)	Offset – no Supplementary Estimate required
828762 08-02-01	Prime Minister (Budget decision)	Budget 2000	ARLU  Consider case	40.0 (01-02 and ongoing)	Main Estimates
829617 21-02-02  Sponsorship Activities	Prime Minister (PCO confirmation)	Unity Reserve	Supplementary Estimate Submission  Appendix case	3.5 (01-02)	Supplementary Estimates B



**Key Provisions of the *Financial Administration Act***

1. **Section 7** - Sets out the administrative policy role of the Treasury Board.
  - **Subsection 7(1)** provides that the Treasury Board may act as the Queen’s Privy Council for Canada on all matters relating to (among other things),
    - (a) “general administrative policy in the public service of Canada”, and
    - (c) “financial management, including estimates, expenditures, financial commitments, accounts, fees or charges for the provision of services or the use of facilities, rentals, licences, leases, revenues from the disposition of property, and procedures by which departments manage, record and account for revenues received or receivable from any source whatever”.
  
2. **Section 26** - “Subject to the *Constitution Acts, 1867 to 1982*, no payments shall be made out of the Consolidated Revenue Fund without the authority of Parliament”. Use of funds appropriated for a purpose not provided for in an appropriation act would constitute a misappropriation of funds.
  
3. **Section 32** – Ensures that funds are available.
  - **Subsection 32(1)** provides that no contract or other arrangement providing for payment where there is an appropriation by Parliament shall be entered into unless there is a sufficient unencumbered balance available. This section therefore ensures that there is enough money in that year’s appropriation to discharge the debt that is incurred in that fiscal year.
  - **Section 32(2)** provides that the deputy head or other person charged with the administration of a program for which there is an appropriation shall, as the TB may prescribe, establish procedures and maintain records respecting control of financial commitments.
  
4. **Section 33** – deals with requisitions for payment.
  - **Subsection 33(1)** No charge shall be made against an appropriation except on the requisition of the Minister or a person authorized by the Minister.
  - **Subsection 33(2)** Every requisition for payment must follow regulations as may be prescribed by the TB.
  - **Subsection 33(3)** No requisition shall be made for a payment that (a) would not be a lawful charge against the appropriation; (b) would result in an expenditure in excess of the appropriation; or (c) would reduce the balance available in the appropriation so that it would not be sufficient to meet the commitments charged against it.

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<sup>64</sup> What follows are brief interpretative summaries of various key sections of the statutes and regulations. These summaries should not be taken as legal interpretations of the sections and only the actual wording of the section in the statute or regulation should be relied upon.

- **Subsection 33(4)** The Minister may transmit to the TB any requisition with respect to which that Ministers desire the direction of the Board, and the Board may order that payment be made or refused.

**5. Section 34** – Ensures that the contracting party has delivered the goods and services, and that there is value for money.

- **Under subsection 34(1)**, no payment shall be made in respect of any part of the public service unless, in addition to any other voucher or certificate that is required, the deputy head or person authorized by the Minister certifies:
  - 1) in the case of performance of work, supply of goods or rendering of services:
    - (i) that the work was performed, the goods supplied, or the services rendered in accordance with the contract, or if not specified in the contract, is reasonable; (ii) where, pursuant to the contract, a payment is to be made before the completion of the work, delivery of the goods or rendering of the service that the payment is according to the contract; (iii) where, in accordance with the policies and procedures prescribed under subsection (2), payment is made in advance of verification, the claim for payment is reasonable.
  - 2) in the case of any other payment, that the payee is eligible to the payment.
- **Under subsection 34(2)**, the TB may prescribe policies and procedures to be followed to give effect to the certification and verification required under subsection (1).

**6. Section 37** – Lapsed appropriation. At the end of a fiscal year (or any other period specified in an Appropriation Act or other Act), any balance of an appropriation that remains unexpended, after the recording of unpaid debts at year-end, lapses. This section supports the principle that Parliament maintains annual control over appropriations.

**7. Section 37.1** – Unpaid debts at year-end. This section was added in 1991. It sets out the exception to the rule in s. 37 on lapse of appropriations. A debt incurred prior to the end of the fiscal year for work performed, goods received or services rendered under any contractual arrangement for which an appropriation has been granted during that fiscal year and that remains unpaid at the end of that fiscal year may be discharged during the following fiscal year, unless TB specifies otherwise.

**8. Section 41** – Gives the Governor in Council authority to make regulations respecting the conditions under which contracts may be entered into, and provides that this regulation-making power does not extend to Crown corporations or the Canada Customs and Revenue Agency.

**9. Section 80** – Offences and punishment. Every officer or person acting in any office or employment connected with the collection, management or disbursement of public money who:

- (a) receives any compensation or reward for the performance of any official duty, except as by law prescribed,
- (b) conspires or colludes with any other person to defraud Her Majesty, or makes opportunity for any person to defraud Her Majesty,

- (c) designedly permits any contravention of the law by any other person,
- (d) willfully makes or signs any false entry in any book, or willfully makes or signs any false certificate or return in any case in which it is the duty of that officer or person to make an entry, certificate or return,
- (e) having knowledge or information of the contravention of this Act or the regulations or any revenue law of Canada by any person, or of fraud committed by any person against Her Majesty, under this Act or the regulations or any revenue law of Canada, fails to report, in writing, that knowledge or information to a superior officer, or
- (f) demands or accepts or attempts to collect, directly or indirectly, as payment or gift or otherwise, any sum of money, or other thing of value, for the compromise, adjustment or settlement of any charge or complaint for any contravention or alleged contravention of law,
- (g) is guilty of an indictable offence and liable on conviction to a fine not exceeding five thousand dollars and to imprisonment for a term not exceeding five years.

**10. Section 88** – Each Crown corporation is ultimately accountable, through the appropriate Minister, to Parliament for the conduct of its affairs.

**11. Section 89** – Directives to parent Crown corporations. This section gives the executive branch of government the authority to intervene in the management and conduct of the business and affairs of a parent Crown corporation, a mandate that has been statutorily conferred on the Board of Directors.

(1) The Governor in Council may, on the recommendation of the appropriate Minister, give a directive to any parent Crown corporation, if the Governor in Council is of the opinion that it is in the public interest to do so.

(2) Before a directive is given to a parent Crown corporation, the appropriate Minister shall consult the board of directors of the corporation with respect to the content and effect of the directive.

(4) The appropriate Minister shall cause a copy of any directive given to a parent Crown corporation to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the directive is given.

(6) Forthwith after implementing a directive and completing any actions required to be taken in connection therewith, a parent Crown corporation shall notify the appropriate Minister that the directive has been implemented.

**12. Section 109** - The board of directors of a Crown corporation is responsible for the management of the businesses, activities and other affairs of the corporation.

**Key Provisions of the *Payments and Settlements Requisitioning Regulations, 1997*** (in force since February, 1998)

13. This regulation is made pursuant to sections 10(a) and 33 of the *FAA*, and applies to every requisition addressed to the Receiver General requesting a payment out of the Consolidated Revenue Fund or requesting an interdepartmental or intradepartmental settlement (s.2).

- s. 3(2)(c) – Every requisition must contain certain information, which is set out in the Schedule.
- s. 4(a) – Certification of a requisition must comply with the *Treasury Board Policy on Account Verification* for the control of financial transactions (addressed below).
- s. 4(c) – The certification must be such that:
  - (i) it clearly identifies the person certifying the requisition,
  - (ii) it involves the use of information that is personally generated at the time of certification by the person authorized to certify it and does not originate from a stored location as part of an automated process, and
  - (iii) it can be authenticated by the Receiver General before payment or settlement is made and can be audited after the payment or settlement is made.
- s. 6(1) – The Receiver General shall not make a payment or settlement in respect of a requisition unless the Receiver General has:
  - (a) verified that the requisition is authentic and has been certified by a person duly authorized under subsection 33(1) of the Act; and
  - (b) if the requisition has been made in the form of an electronic instruction issued by on-line transfer, acknowledged receipt of the requisition;
- s. 6(2) – The appropriate Minister shall, for the purpose of subsection (1), provide the Receiver General with the information required to identify the person who has certified the requisition.

### **Key Provisions of *Government Contracts Regulations***

14. These regulations apply to all contracts (with certain exceptions that are of no concern to the Commission).
- s. 5 – Requirement to solicit bids. Before any contract is entered into, the contracting authority shall solicit bids therefore in the manner prescribed by section 7.
  - s. 6 – Exceptions to requirement to solicit bids. Notwithstanding section 5, a contracting authority may enter into a contract without soliciting bids where:
    - (a) the need is one of pressing emergency in which delay would be injurious to the public interest;
    - (b) the estimated expenditure does not exceed \$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 person is capable of performing the contract.
  - s. 7 – A contracting authority shall solicit bids by: (a) giving public notice, in a manner consistent with generally accepted trade practices, of a call for bids respecting a proposed contract; or (b) inviting bids on a proposed contract from suppliers on the suppliers' list. [NB: see also the TB Contracting Policy, which further details these requirements].
  - s. 8(1) and (2) – Any contracting authority may enter into a contract for the making of advance payments. Where the approval of the TB is required for entry

into a contract, the amounts and the times of the advance payments shall be approved the TB.

- **s. 9** – Any contracting authority may enter into a contract that provides for the making of progress payments.

15. During the period of interest to the Commission of inquiry, one key change took place in the GCRs: in October 1996, the threshold for solicitation of bids (found at section 6(b)) was reduced from \$30,000 to \$25,000.

## The Treasury Board Submission Process

### What is a Treasury Board Submission?

1. A Treasury Board submission is an official document submitted by a Minister on behalf of her or his department<sup>1</sup> to seek approval or authority from Treasury Board Ministers to carry out a proposal for which Treasury Board approval has been established as a prerequisite.<sup>2</sup>
2. Typical examples include seeking Treasury Board approval to:
  - Allocate resources previously approved by Cabinet or included in the federal Budget;
  - Authorize or amend terms and conditions of programs governing grants or contributions;
  - Recommend approval of Orders in Council that have resource (e.g., cost recovery) or management implications;
  - Carry out a project or initiative, the costs of which would exceed a department's delegated authority;
  - Enter into a contract above the limits set out in Appendix C of the *Contracting Policy*; and
  - Obtain an exemption from a Treasury Board policy.
3. In addition, a department may submit a proposal to TB if it believes that the latter's collective judgement is necessary or desirable. Furthermore, the Treasury Board Secretariat may recommend that a department prepare a submission, even if there is no explicit requirement to do so (for example, when a proposed action has implications for other departments).
4. The *Guide to Preparing TB Submissions*, available at [http://www.tbs-sct.gc.ca/pubs\\_pol/opepubs/TBM\\_162/gptbs-gppct\\_e.asp](http://www.tbs-sct.gc.ca/pubs_pol/opepubs/TBM_162/gptbs-gppct_e.asp), outlines the requirements and process from the perspective of a department facing the TB submission process. It provides a detailed list of questions commonly asked by TBS analysts throughout the process. Viewed from a TBS standpoint, the following summarizes the steps taken in the TB submission vetting and analysis process from the time a draft TB submission is brought to the Secretariat's attention to its consideration by Ministers at a TB meeting. TB submissions brought forward by the Treasury Board Secretariat itself generally follow the same process as those received from departments. As noted in the *Guide*, the

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<sup>1</sup> "Department" includes departments, agencies and Crown corporations.

<sup>2</sup> These prerequisites can arise from legislation, regulations, Treasury Board policies or previous decisions of the government or the Treasury Board. The Secretariat also uses the Submission in order to obtain approvals or authorities from Treasury Board Ministers to carry out proposals, including the introduction, revision and deletion of policies.

usual time for a submission to proceed from the initial draft stage to the Treasury Board's decision is approximately two to three months.

### Program Analyst Role

5. After a department crafts an initial draft submission, that draft is forwarded to the TBS program analyst responsible for that department. The analyst will typically be aware of an upcoming TB Submission as part of the analyst's role is to be in regular contact with the corporate services of the department or departments for whom he or she is responsible, as well as with program areas of these departments. The analyst may have also been involved with a Memorandum to Cabinet or in policy discussions on a given subject that may have precipitated the need for a TB submission. Generally, the involvement with the department's program staff relates to the business planning and program authorities being sought in a submission, while the analyst deals with corporate services, in part to ascertain where a particular submission fits into the organization's priorities.

6. The TBS program analyst serves as a principal point of contact for a department in TBS and plays a key role in maintaining an integrated view of departments' management practices. In the process of analyzing a TB submission, the analyst frequently calls upon TBS colleagues with subject matter expertise in various fields (e.g., contracting, procurement, real property, project management, financial management, comptrollership, human resources management, legal services) for advice on the department's submission.

7. Program analysts and their supervisors provide advice on a range of subjects related to TB submissions such as: the effective use of resources; program design, viability, and responsiveness; funding pressures and mitigation strategies; and broad government operational issues and management strategies.

8. In addition, the analyst provides a challenge function to a department to ensure that impacts of program proposals have been thoroughly analysed in the context of the department's priorities, those of government, and the relevant TB policies. As the analyst is a focal point for TBS's on-going relationship with a department, the analyst needs to develop a thorough understanding of the department's mandate, services lines, pressures and priorities. Recommendations to Ministers are the result of scrutiny of the TB submission in question, and the interface with the department to resolve concerns or questions surrounding the authorities being sought through the submission. The consequences of the requested authorities, financial or otherwise, are outlined in advice to TB Ministers concomitantly with recommendations to approve, not approve or approve with conditions the particular proposals contained within a TB Submission. This advice is contained in a written précis and may be elaborated upon during discussion at TB meetings.

9. Over the years, a concerted effort has been made to decrease the number of "transactional" submissions coming before the Board. This is part of an effort to try and

place the Board and the Secretariat on a more strategic footing and to enhance TB's capacity to act as the management board for the whole of government. Part of this ongoing process is finding the proper balance between controls, such as requiring that departments obtain Treasury Board approval for certain transactions, and instilling the appropriate culture, such as departments' capacity to accept full accountability for compliance with the legislation, regulations and policies that constitute the basis for management performance accountability. Recognizing that this balance between control and "letting the managers manage" requires constant challenge, testing and change, the Secretariat needs to continue the reduction of the time spent on low value-added "transactional" matters and focus on continuing the evolution of the role of Treasury Board as a management board.

### TBS's Criteria for Review of TB Submissions

10. Upon receipt of an early draft, the analytical process undertaken by TBS involves certain initial questions followed by a more complex analysis, as required by the particular TB submission, as not all submissions are of equal complexity and significance.

11. Firstly, the analyst must address two questions: 1) is a submission required and, 2) is there a source of funds for a submission seeking incremental funding?

12. If a submission is required to obtain the authority or authorities requested by the department, the analyst begins the analysis with confirmation of a source of funds for the TB submission should it have financial implications. This confirmation is done in conjunction with TBS's Expenditure Operations and Reporting Sector: any submission requesting incremental funding must have a source of funds before proceeding to TB Ministers. In exceptional circumstances where there is no source of funds for a proposed TB submission, discussions may be undertaken with Expenditure Operations and Reporting within TBS, and colleagues in other central agencies, to determine whether other alternatives exist (e.g., reallocation).

13. Once a source of funds has been identified, the review of a submission by TBS is generally guided by the following criteria with the degree to which they are applied dependent on judgement with regard to materiality, risk and relative priorities in terms of analytical capacity available. In situations where materiality and risk are judged to be low, application of many of these criteria may be appropriately cursory. In cases where a submission is material or is judged to raise risk issues, analysis may go beyond these criteria:

- **Authorities** – Does the proposal conform to legislation, government regulations, departmental mandate, and current policy approvals?
- **Priorities** – How does the proposal affect the broader set of government priorities?
- **Affordability** – What are the costs and who should pay?
- **Effectiveness** – Will the proposal achieve the desired policy outcomes?



- **Program delivery** – Could the proposal be delivered better in a different way?
- **Prudence, Probity and Equity** – Are there appropriate safeguards to protect public funds?
- **Performance Measurement** – Is there a clear understanding of the results to be achieved and an ability to measure or evaluate the success of proposals?

14. TB submission drafting is often an iterative process. The analyst reviews a draft and provides comments based on his or her analysis, integrated with the input of TBS colleagues, to the department. The department may then respond with a subsequent draft that addresses TBS concerns and/or incorporates recommended changes. The time required for this iterative process varies, but is two to three months on average depending on the submission's complexity. For instance, a new program might entail more time-consuming activities on the part of TBS such as providing input on appropriate performance measures or participating in discussions with other affected departments. Conversely, should a TB submission involve providing a report to TB Ministers for the purpose of releasing previously-frozen funds, such a submission process might require less than two months.

15. If the department has addressed all of TBS's concerns in the process of drafting the submission, the analyst is normally in the position to recommend that TB Ministers approve the submission as proposed by the department. While TBS may recommend that TB Ministers not approve a submission, outstanding TBS concerns frequently tend to be addressed through advising TB Ministers to approve a submission with conditions attached (such as imposing reporting conditions, placing funding in special purpose allotments, freezing funds, etc.).

16. In addition to providing feedback on the content of a submission, the analyst also advises the department on the scheduling of TB meetings and related timing requirements, as applicable, related to any of their upcoming submissions.

### Sign-offs

17. Once a sponsoring Minister has signed a finalized TB submission, it is sent to TBS where it is received by the Submission and Cabinet Document Centre. The Submission and Cabinet Document Centre automatically forwards copies of the TB submission to at least two areas within TBS in addition to the program analyst. These areas are: Expenditure Operations and Expenditure Strategies, both in the Expenditure Operations and Reporting Sector. It is up to Expenditure and Operations Reporting Sector to ensure that there is a source of funds for what is being requested and to confirm that the appropriate expenditure authorities are in place or are adequately addressed. These two areas must sign off on the submission in order for it to proceed to TB Ministers. As appropriate, the submission will also be forwarded to policy centres within TBS (e.g., centres responsible for real property management, contracting policy and project management policy, transfer payments) for sign-off by the respective TBS policy analysts.

## TBS Briefing and Oversight During Submission Process

18. The Program Sector's director supervising the analyst will be aware of upcoming issues of concern of the departments for which he/she is responsible. Depending upon the complexity of negotiations during the drafting of a submission, the director may be involved in consultations with a department to resolve outstanding issues of concern and/or to provide oversight. Requests for additional flexibilities, exemptions to standard policy requirements, issues relating to program development and implementation, etc. with a high level of sensitivity may also entail the participation of the Program Sector's Assistant Secretary (ADM-level) in discussions prior to receipt of a signed TB submission.

19. In most cases, however, the briefings to the Assistant Secretary occur during planning sessions in the week or two preceding a TB meeting. The analyst's recommendations related to a TB submission are signed off by the analyst's supervising director, following receipt of the requisite sign-offs from within TBS, as applicable. The Assistant Secretary, who will present the TB submission to TB Ministers, has an opportunity to review draft recommendations and provide feedback. This feedback may involve questions relating to any of the above-listed review criteria for TB submissions and beyond. The Assistant Secretary may request that advice to Ministers be clarified, that additional information be included, and/or that the TB submission be temporarily deferred pending the resolution of any outstanding concerns.

20. Assistant Secretaries from all areas of TBS, along with the Senior General Counsel for Legal Services, brief the Secretary and the President of the Treasury Board on the content and issues surrounding TB submissions prior to the TB meetings. In addition to those officials mentioned earlier, attendees from the Secretariat at the TB meetings include the Assistant Secretary, Strategic Policy and Communications as well as the Senior Director, Ministerial Services.

## Treasury Board Meetings

### *TBS Officials*

21. Assistant Secretaries present policies, directives and regulations as well as TB submissions to the Ministers for consideration. With regard to TB submissions, TBS officials provide a précis briefly describing the proposal, its cost, and other relevant information. The précis thus forms the vehicle through which TBS formally provides its recommendations to TB Ministers. The précis provides a summary of the TB submission contents and includes the proposals precisely as written in the submission. TBS also includes in the précis amendments to the TB submission proposals that have been negotiated with departments, or recommendations for further conditions, or amendments to submission proposals, as appropriate.

22. Generally, all TB submissions, accompanied by their respective précis, are provided to TB Ministers in briefing binders prior to the TB meeting. The TB

submissions are also categorized based upon the nature of the review required, the relative complexity, or the risk profile of the issues involved. These categories are:

- **Presentations** – For review only. These are presentations and decks seeking to provide information or to obtain Ministerial direction.
- **Consider Cases** – These are submissions requiring TB consideration and decision. They typically deal with complex or unresolved issues requiring TB discussion. They are also used to present proposals for new TB policy, requiring TB approval. Consider cases are supported by both submissions and précis (with TBS recommendations) in the binder.
- **Appendix Cases** – These involve submissions for TB decision that are transactional in nature and for which all associated issues have been resolved. These submissions may be flagged for TB or the President if of interest. Only the précis appears in the TB binder for such cases. However, submissions are available for consultation during the meeting.
- **Routine** – These cases are for strictly routine business. They are simply listed on the TB agenda. Précis are not usually provided.
- **Carry** – These are urgent cases requiring decisions, and that have not been included in Ministers’ books. They are provided at the TB meeting with accompanying précis.

#### *TB Ministers*

23. When attending TB meetings, TB Ministers have the opportunity to question presenting officials on the submissions before them. They may approve, not approve, defer their decisions, or refer a submission back to a policy committee. TB Ministers do not represent their portfolios at TB, but rather act as government Ministers. For this reason, convention dictates that Ministers not address their own submissions at TB meetings.

#### *President’s Role*

24. The formal role of the President is to chair the TB meetings. In between meetings, he or she carries out his or her responsibility for the management of the government by translating the policies and programs approved by Cabinet into operational reality and by providing departments with the resources and the administrative environment they need to do their work. The President may also exercise the powers of Treasury Board that have been delegated to the President by the Governor in Council.

#### Outcomes of TB Meetings

25. The Board has four options when considering a department’s TB submission: *approve, not approve, approve with conditions, or defer to another meeting*. TBS officials record the TB’s decisions and, shortly thereafter, officials formally advise their departmental contacts of the outcomes and the TB decision numbers. Departmental

contacts will also be notified informally of the decision, usually the day after the Board's meeting.

26. The TBS provides departments with a formal record of decisions in either a *turnaround* or a *decision letter* that constitutes a formal "minute" of the meeting.

27. When the TB approves a submission with no modifications or conditions, TBS will send the department a *turnaround*, which is simply a copy of the front page of the submission stamped "approved."

28. The TBS uses a *decision letter* for three purposes: when the TB has approved the submission with changes; when it has imposed conditions on its approval; or, when it has not approved the submission. The decision letter is signed by the senior TBS official that presented the submission or was identified as responsible in the case of Appendix and Routine, usually an Assistant Secretary, and sent to the Deputy Head(s) of the organization(s) after the TB meeting.

29. If TB Ministers defer the submission, TBS officials will follow up with the department to resolve any outstanding issues, after which the proposal may be rescheduled at TB.

### The Program Analyst's Role in the Main and Supplementary Estimates Process

#### *The Annual Reference Level Update (ARLU)<sup>3</sup>*

30. The ARLU represents the beginning of the process by which the Treasury Board approves departmental budgets or "reference levels" which also form the basis on which Main Estimates are prepared to seek Parliament's approval of departments' appropriation for the next fiscal year. It is based on submission of ARLU documents by departments in the fall.

31. Over the summer, TBS's Expenditure Operations and Reporting Sector (EORS) sends out a call letter to departments setting out the process and deadlines for the ARLU. The ARLU documents, signed by the appropriate Ministers, are received in EORS with copies forwarded to program analysts for their review and assessment. Program analysts review the documents to ensure that proposed adjustments to departmental reference levels reflect approvals since the last update and do not present any program issues. Program analysts review the departments' ARLU documents against "approved changes to reference level" reports that outline TB approvals for incremental funding for the organizations since the last ARLU.

32. Program analysts, with the assistance of EORS, will assess whether these items can be included in the ARLU omnibus TB submission, which is restricted to technical items. Although an item may seem technical in nature, Program Sectors may still require

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<sup>3</sup> The process and use of the ARLU is fully described in Annex E. This section will simply describe the role of the program analyst in the process.

organizations to come forward with a separate TB submission for consideration of that specific item by Ministers. The program analyst's review is conducted jointly with EORS and departments. The program analyst's assessment takes into account issues such as source of funds, requirement for policy approval, program issues, etc. Once the review is completed, the program analyst advises EORS, and the department, whether the technical items can be included in the ARLU omnibus submission. In addition, where necessary, program analysts will also submit paragraphs to EORS, for inclusion in the ARLU omnibus TB submission that seek any technical authorities necessary. The Program Director will also sign off on the departmental items to be included in the ARLU omnibus TB submission.

*Supplementary Estimates*<sup>4</sup>

33. Similarly, items of a technical nature requiring TB approval can be included in the Supplementary Estimates omnibus TB submission. As is the case with the ARLU, items of a "non-technical" nature require TB approval, through a separate TB submission. As with the ARLU process, TBS will request the appropriate authorities from Treasury Board on behalf of departments for eligible, non-controversial technical items. The criteria for items that can be approved in the omnibus submission are outlined in the Supplementary Estimates call letter sent out by TBS.

34. Agreement must be obtained from the appropriate Program Sector director to include such items in the Supplementary Estimates omnibus TB submission.

35. The ARLU and Supplementary Estimates omnibus TB submissions are drafted by EORS. The Assistant Secretary, EORS will brief senior TBS officials as well as the President and present the submission to TB Ministers for their consideration. Program Sectors will provide briefing material on items related to their portfolio departments.

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<sup>4</sup> The process and use of Supplementary Estimates is fully described Annex E. This section will simply describe the role of the program analyst in the process.

**Synopsis of the Key Policies of Potential Interest to the Inquiry  
and a Chronology of their Evolution**

Summaries of the following key policies have been prepared to provide a brief perspective on these TB policies and their predecessors; however, in the preparation of any official statements, references should be made to the actual policy.

1. Summaries of the *Communications Policy of the Government of Canada* and of the *Federal Identity Program Policy* and a Chronology of their Evolution
  - a) *Communications Policy of the Government of Canada*
  - b) *Federal Identity Program Policy*
2. Summaries of Financial Management Policies and a Chronology of their Evolution
  - a) *Policy on Account Verification*
  - b) *Policy on Delegation of Authorities*
  - c) *Policy on Interdepartmental Charging and Transfers Between Appropriations*
  - d) *Policy on Losses of Money and Offences and Other Illegal Acts Against the Crown*
  - e) *Policy on Payment Requisitioning and Payment on Due Date*
  - f) *Policy on Responsibilities and Organization for Comptrollership*
  - g) *Policy on Transfer Payments*
3. Summary of the *Internal Audit Policy* and a Chronology of its Evolution
4. Evolution of the *Contracting Policy* and its Appendices with a Focus on U/Q
5. Summary of the *Common Services Policy* and a Chronology of its Evolution
6. Summary of the *Policy on the Internal Disclosure of Information Concerning Wrongdoing in the Workplace* and a Chronology of its Evolution

*Communications Policy of the Government of Canada - Summary*

**Effective Date & URL**

This policy, available at [http://www.tbs-sct.gc.ca/pubs\\_pol/sipubs/comm/comm\\_e.asp](http://www.tbs-sct.gc.ca/pubs_pol/sipubs/comm/comm_e.asp), took effect on April 1, 2002.

**Policy Objective and Statement**

1. The objective of the policy is to ensure that communications across the Government of Canada are well coordinated, effectively managed and responsive to the diverse information needs of the public. The ten commitments supporting this objective are elaborated upon in the policy. The communications function encompasses:

- *Effective and accountable management*
- *Values and ethics*
- *Listening and evaluating*
- *Meeting diverse needs*
- *Outreach*
- *Corporate identity and visibility.*

2. Actions expected of institutions to meet them are described in the policy requirements. Institutions are provided with direction in 31 discrete areas of communications management. These include official languages, corporate identity, crisis and emergency communication, environment analysis, planning and evaluation, regional operations, internal communication, Internet and electronic communication, media relations, advertising, partnering and collaborative arrangements, sponsorships, marketing, publishing, training and professional development.

3. The policy promotes coherent, consistent communications within, between and among institutions — one government, speaking with one voice. It reinforces the principle of open communications — the government's duty to inform; the citizen's right to be heard. It underscores the need for institutions to support Ministers as the government's principal spokespersons and to assist their offices in planning for special events and announcements. It strengthens official language provisions, including advertising in media that serve official language minority communities. It provides direction for the effective management of partnerships and sponsorships. It bans commercial advertising on government websites and in government publications. It strengthens provisions for communicating in multiple formats, for communicating effectively during crises and emergencies, and to be proactive rather than reactive in all communications.

## **Roles and Responsibilities**

4. The policy identifies the roles and responsibilities of Ministers, Deputy Ministers and agency heads, heads of communications and other government officials, as well as those of key institutions: the Treasury Board of Canada and its Secretariat, the Cabinet Committee on Government Communications, the Privy Council Office, Communication Canada, Public Works and Government Services Canada, the National Library of Canada, and the Public Service Commission.

## **Chronology of Changes or Amendments**

- October 1, 1990, *Government Communications Policy* – in force since 1988 – is published as *Chapter One* of the *Communications Volume* of the *TB Manual*. Three new appendices (C to E) are added to the policy, including “Appendix D: Advertising Agency Selection.”
- July 31, 1994, “Appendix D” of the *Government Communications Policy* is revised and reissued as “Policy and Guidelines with Respect to Contracting Procedures for Communications, Public Opinion Research and Advertising Services” as per Appendix U to the *Contracting Policy*.
- May 1, 1995, *Government Communications Policy* amended to add “Appendix F: Best Practices in Media Relations.” New appendix provides guidance on managing media relations.
- November 28, 1996, *Government Communications Policy*, issued in electronic format, replaces print version with minor revisions for grammar and style. (The *TB Manual* was retired in print form that year.)
- April 1, 2002, new *Communications Policy of the Government of Canada* takes effect. Replaces previous *Government Communications Policy* in force since 1988 with amendments in 1990, 1994, 1995 and 1996 (as noted above). Includes new procedures for planning, contracting and evaluating advertising and public opinion research, as well as new requirements for partnering, collaborative arrangements and sponsorships.
- The policy was renewed in 2002 because the former *Government Communications Policy* was in need of a major overhaul to take account of the increasingly complex communications environment.
- July 2004, amendments to the *Communications Policy* are being prepared for Treasury Board approval. The policy is being amended following changes to the machinery of government (e.g., termination of Communication Canada and transfer of functions to PWGSC and PCO, and new legislation creating Library and Archives Canada) and changes to the management of government advertising in response to the Auditor General’s report on sponsorship, advertising and public opinion research.



***Federal Identity Program Policy - Summary***

**Effective Date & URL**

1. This policy took effect on October 1, 1990. It superseded Chapter 470, Federal Identity Program, of the *Administrative Policy Manual* - [http://www.tbs-sct.gc.ca/pubs\\_pol/sipubs/TB\\_fip/siglist\\_e.asp](http://www.tbs-sct.gc.ca/pubs_pol/sipubs/TB_fip/siglist_e.asp)

**Policy Objective**

2. The objectives of the Federal Identity Program (FIP) are:
- to enable the public to recognize clearly federal activities by means of consistent identification;
  - to improve service to the public by facilitating access to federal programs and services;
  - to project equality of status of the two official languages consistent with the Canadian Charter of Rights and Freedoms and the Official Languages Act;
  - to ensure effective management of the federal identity consistent with government-wide priorities, and to achieve savings through standardization; and
  - to promote good management practices in the field of corporate identity and information design.

**Policy Statement**

3. Federal institutions, programs, services and contributions shall be identified in accordance with corporate identity standards for the Government of Canada. The equality of status of the two official languages shall be projected when applying these corporate identity standards.

**Departmental Responsibilities**

4. The *Communications Policy of the Government of Canada* establishes corporate identity management as an integral part of the communications function. That policy sets out the deputy head's responsibilities, which include corporate identity. The senior official designated by the deputy head and referred to as head of communications assumes responsibility to manage the institution's corporate identity in accordance with FIP policy and standards.

5. TBS provides functional leadership for the government's corporate identity, and is responsible for coordinating the implementation of the FIP. Each institution manages its own corporate identity within the framework of the government-wide policy and standards. Federal institutions are identified as organizations of the Government of Canada rather than as separate, independent entities.

6. TBS will monitor compliance with this policy through reports available from central information systems, internal audits and liaison with institutions. Upon request, institutions will provide implementation plans or progress reports to the TBS. Internal audit groups should include in their audit of corporate identity applications an assessment of the extent of compliance with this policy and FIP design standards.

### **Chronology of Changes or Amendments**

- October 1, 1990, FIP policy is published as *Chapter Two* of the *Communications Volume* of the *TB Manual*. FIP regulates how federal institutions identify themselves and their activities to ensure clear, consistent identification of programs and services, assets and activities. It projects a cohesive, unified administration nationally, making the Government of Canada visible in the daily lives of Canadians – showing how and where their tax dollars are at work. FIP sets standards for the design and use of the official marks or symbols of the Government of Canada, including the “Canada” wordmark. Government first established FIP as its corporate identity program in 1970. Public notice of the adoption and use of the “Canada” wordmark as an official mark of the government was given under Section 9(1)(n)(iii) of the *Trade-marks Act* in the *Trade Marks Journal* on August 25, 1982.
- December 1992, Volume 4.1, “Signage: System overview and implementation,” added to the *FIP Manual*. Provides institutions with guidance on the overall planning and implementation of their signage systems.
- November 1993, Treasury Board issues *Planning Information Products: effective, no-frills publishing practises*. A consolidation and renewal of previous TB directives and guidelines regarding the design and printing of departmental reports, news releases and information kits. *No-frills* was issued to reduce publishing costs government-wide and to provide design standards for reports, news releases and kit folders.
- January 1994, Volume 2.1, “Stationery: Ministers, parliamentary secretaries, and their offices,” of the *FIP Manual* is revised.
- October 1997, Volume 4.3b, “Tactile Signage: Sign System and Installation Guide,” is added to the *FIP Manual*. Sets standards for tactile signage and promotes savings through standardization.
- February 19, 1998, Treasury Board adds nine new requirements to the FIP – effectively amending FIP policy to improve its application government-wide and to strengthen the government’s presence and visibility across Canada. Includes new requirement for Crown corporations previously exempt from FIP to display the “Canada” wordmark as an integral part of their corporate identity.<sup>65</sup>
- March 12, 1998, Appendix C of FIP policy revised – listing of titles of federal organizations updated.

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<sup>65</sup> In November 1996, VIA Rail was exempt from the Policy; Annex B of the 1990 Policy (that was in effect at that time) clearly identifies those federal entities exempted from the Policy. The 1990 Policy also outlines the exemption criteria. Following the 1998 decision, VIA Rail was to display the Canada wordmark prominently on all corporate applications, such as stationery, forms, motor vehicles, signage, advertising, published material, audio-visual productions, expositions and personnel identification.

- May 4, 2000, Treasury Board approves new policy on *Common Look and Feel for the Internet: Standards and Guidelines*. The establishment of Common Look and Feel flows from one of the nine new requirements adopted by TB on February 19, 1998 (cf. decision no. 8).

*Policy on Account Verification - Summary*

***Effective Date & URL***

1. December 1991 - [http://www.tbs-sct.gc.ca/pubs\\_pol/dcgpubs/TBM\\_142/Accver\\_e.asp](http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/TBM_142/Accver_e.asp)

***Policy Objective***

1. To ensure that accounts for payment and settlement are verified in a cost-effective and efficient manner while maintaining the required level of control.

***Policy Statement***

2. It is government policy to pay on time, neither early nor late, amounts that represent a legitimate obligation and are correct. Account verification processes are to be designed and operated in a way that will maintain probity while taking into consideration the varying degrees of risk associated with each payment.

***Departmental Responsibilities***

3. The policy applies to all organizations considered to be departments within the meaning of Section 2 of the *Financial Administration Act (FAA)*. The policy refers to the need for payments and settlements to be verified and certified pursuant to section 34 of the FAA and identifies responsibility for verifying individual accounts. It also identifies responsibility for the system of account verification and related financial controls.

4. The policy also outlines procedures for Crown debts or power of attorney that the Receiver General has recognized.

5. The policy outlines departmental responsibilities for account verification for FAA Section 34 pointing out that internal policies must be established and documented outlining the extent of verification required, based on risk considerations, to certify that the following have been complied with:

- the work has been performed, the goods supplied or the services rendered or in the case of other payments, the payee is entitled to or eligible for the payment;
- relevant contract or agreement terms and conditions have been met including price, quantity and quality. If in exceptional circumstances, the price is not specified by the contract, that it is reasonable;
- where a payment is made before the completion of work, delivery of goods or rendering of services, as the case may be, that such advance payment is required by the contractual terms of the contract;
- the transaction is accurate and the financial coding has been provided; and
- all relevant statutes, regulations, orders in council and Treasury Board policies have been complied with (e.g. travel policy, etc.).

6. Departments must identify the risk level for various types of transactions processed by the department if they wish to implement variations in the extent of the verification based on criteria outlined in the policy.

7. The policy also addresses quality assurance processes used to assess the adequacy of the account verification system to reflect the risk level of the transactions under review.

8. All high-risk transactions must be subjected to a review of all relevant aspects of the transaction. For low and medium risk transactions, it is normally sufficient to select a sample of the transactions and to review only the most relevant aspects of each selected transaction.

### **Monitoring**

9. The account verification process should be audited by the departmental internal audit group. Of particular interest is the implementation of the departmental criteria established for each category of risk and the types of payments identified for payment before completion of the detailed verification.

### **Chronology of Changes or Amendments**

10. The chronology of revisions in format to this policy, as given below, do not imply that contextual amendments were made to the policy. The history of format revisions provided simply displays the format evolution of this policy.

- As of current online Treasury Board Policy October 1, 1994
- As of Comptrollership Guide October 1, 1994
- As of Financial Management Volume December 31, 1991
- As of Guide on Financial Administration (Section 9.1, 9.3, Appendix 9G) April 1, 1991

11. In December 1991, the following two changes were approved by TB:

- Revoke the existing account verification and statistical sampling policies and introduce a new policy based on risk management (Rationale: Introduces flexibility in the account verification process allowing departments to develop departmental policies and procedures reflecting sound concepts of risk management, adapted to the nature of their operations).
- Prescribe the criteria for making payment in advance of completing account verification, as envisioned by paragraph 34(1)(a)(iii) of the *Financial Administration Act* (Rationale: As a result of the passage of Bill C-91, section 34 of the *FAA* was amended to allow for payment of certain types of payments prior to the completion of verification requirement when considered to be reasonable. The policy defined the criteria that must be considered by departments when determining which types of departmental payments will be made using this provision of the *FAA*.)

*Policy on Delegation of Authorities - Summary*

**Effective Date & URL**

October 1994 - [http://www.tbs-sct.gc.ca/Pubs\\_pol/dcgpubs/TBM\\_142/2-1\\_e.asp](http://www.tbs-sct.gc.ca/Pubs_pol/dcgpubs/TBM_142/2-1_e.asp)

**Policy Objective**

1. To ensure that appropriate financial and operational management controls are applied to the decision process in spending public money and that they contribute to the effectiveness of program delivery and to the accountability of the authority process

**Policy Statement**

2. It is government policy to entrust its Ministers and deputy heads with the responsibility to delegate financial and operational authority to managers in order to enable them to administer programs under their jurisdiction.

**Departmental Responsibilities**

3. This policy applies to all organizations considered to be departments within the meaning of section 2 of the *Financial Administration Act* (FAA).

4. Ministers and deputy heads must formally delegate and communicate financial authorities in writing and establish an appropriate division of responsibilities in order to ensure that controls are applied in spending public money. Whether the Minister or the deputy head or both must so delegate will depend on the statute requiring the delegation.

5. Departments must establish policies and procedures that will ensure an adequate level of control over delegated authorities and that persons with delegated authorities are well informed of their responsibilities in this regard.

6. No person shall be permitted to exercise authorities unless the Minister or the deputy Minister has formally delegated these authorities and the officer to whom the incumbent of the position reports has formally designated the person.

7. The process must ensure that the signatures of persons authorized to exercise authorities can be authenticated before or after the processing of the transaction.

8. Authorities must be delegated to positions identified by title, not to individuals identified by name.

9. Persons properly designated to exercise authorities shall not delegate these authorities.

10. Departments must review and update all delegated authorities, including electronic delegation matrixes, specimen signature documents and validation and authentication processes in use in departments and in offices of the Department of Public Works and Government Services at least annually.
11. Ministers and deputy heads must carry out control measures periodically to prevent the improper use of the authorities they have delegated to their subordinates.
12. In assigning responsibility to individuals involved in the expenditure process, a deputy head must ensure that the following functions are kept separate:
  - procurement;
  - certification of the receipt of goods and the provision of services;
  - determination of entitlement, verification of accounts, and preparation of requisitions for payment or settlement; and
  - certification of requisitions for payment or settlement pursuant to section 33 of the *Financial Administration Act*.
13. Should the process or other circumstances not allow such separations of duties, alternate control measures must be implemented (e.g. acquisition cards and other governmental credit cards).
14. Though appointment of a new Minister does not automatically nullify existing delegations of authorities, departments must prepare a new document of delegation as quickly as possible for the new Minister's approval.
15. Departments spending authority must be delegated to responsibility centre managers in relation to their budgetary responsibility in order to ensure they have adequate authority and full responsibility for their decisions.
16. Departments must delegate payment authority to positions classified as "financial officer" who can independently verify how other officers exercise spending authority.
17. Departments must establish adequate controls to ensure that a specimen signature document is prepared as soon as a new employee is appointed to a position with delegated authorities. This document and delegation documents must be available in all locations where the signatures will have to be recognized and honoured. This document must be cancelled and withdrawn as soon as the incumbent gives up the duties of the position, and withdrawn and replaced when departmental reorganizations or policy changes modify any of the information it contains.

### **Chronology of Changes or Amendments**

- |                                 |                 |
|---------------------------------|-----------------|
| • Current Treasury Board Policy | October 1, 1994 |
| • Comptrollership Guide         | October 1, 1994 |
| • Financial Management Volume   | March 1, 1994   |

18. On March 1, 1994, Chapter 3-1 Policy on Delegation of Authorities of the Financial Management Component of the Treasury Board Manual was issued. Six months later, on October 1, 1994, Chapter 2-1 Policy on Delegation of Authorities of the Comptrollership Guide was published. These two versions of this Policy are the same except for two texts that were added: a) a sentence to the policy's first policy requirement, and b) a new section (5) of the guidelines.

19. The two texts added to the Policy were:

A) Policy requirement 1 of Chapter 2-1 *Policy on Delegation of Authorities* of the Comptrollership Guide states:

Ministers and deputy heads must formally delegate and communicate financial authorities in writing and establish an appropriate division of responsibilities in order to ensure that controls are applied in spending public money. Whether the Minister or the deputy head or both must so delegate will depend on the statute requiring the delegation.

The last sentence of this policy requirement was not found in Chapter 3-1 Policy on Delegation of Authorities.

B) Chapter 2-1 Policy on Delegation of Authorities, Appendix A Guidelines, Section 5, contains the following text not found in the previous Chapter 3-1:

**5. Power to Act for Ministers**

For a number of years now, the courts have acknowledged that a Minister is not expected to personally exercise all authorities conferred on that Minister and that, in certain circumstances, departmental officials may act for their Minister in exercising his or her statutory powers. This authority to act for a Minister has now been formally codified and is reflected in subsection 24(2) of the *Interpretation Act* and more specifically in paragraph (d) thereof (see Chapter 6-2). That section emphasizes that in order to act for a Minister, a person must:

- be a public servant employed in the department or organization for which the Minister is responsible; and,
- serve in a capacity within the department such that the person can reasonably be expected to exercise the power of the Minister.

The first point limits those persons who may act for a Minister. The person must be a public servant; private contractors and Ministerial staff would not be included. Also, the public servant must serve in the department over which the Minister presides; thereby excluding a Minister of State without a Ministry.

The second point measures the exercising of a Ministerial power against such factors as position and job description, hierarchical relationships, and geographical location in order to assess whether the person could reasonably be expected to exercise that power within the department.

**Restrictions**

This power to act for a Minister under subsection 24(2) applies only on a case-by-case basis and does not authorize a continuing delegation of authority. Such continuing authority can only be given by a formal delegation from the Minister where a statute so provides. Likewise this subsection does not apply to any power to designate officials which has been expressly conferred on Ministers by statute; for instance the power of a Minister to designate authorized signing officers under sections 33 and 34 of the *Financial Administration Act*. Only the Minister him- or herself may delegate this authority.

20. It should be noted that the *Policy and Reporting Review Project: Directions for Treasury Board Policy* defines guidelines as:



A source of guidance for deputy heads and managers. They are intended to be helpful, not mandatory.

22. The *Policy and Reporting Review Project* also notes that guidelines may be created by the Secretariat without Treasury Board approval. Section 5, therefore, is not policy; it is instead guidance to departments that was in part prompted by earlier amendments to Subsection 24(2) of the *Interpretation Act* which sets out the general rule allowing public servants to exercise authorities assigned to Ministers by Parliament through legislation. The purpose of this guidance was to explain to departments the interrelationship between Subsection 24(2) of the *Interpretation Act* and the specific financial authorities set out in Sections 33 and 34 of the *Financial Administration Act*.

***Policy on Interdepartmental Charging and Transfers Between Appropriations  
Summary***

**Effective Date & URL**

1. June 20, 1997 - [http://www.tbs-sct.gc.ca/Pubs\\_pol/dcgpubs/TBM\\_142/ICTA\\_e.asp](http://www.tbs-sct.gc.ca/Pubs_pol/dcgpubs/TBM_142/ICTA_e.asp)

**Rationale**

2. The *Policy on Interdepartmental Charging and Transfers Between Appropriations* arose from a desire to have a mechanism to deal with the provision of goods and services between departments where these goods and services are not part of a department's on-going activities or operations and do not contribute to its own mandate. These transactions must not form a "regular line of business" and in these cases the interdepartmental charge is limited to the department's "out-of-pocket" expenses, in effect merely restoring them to where they were before they took on the extraordinary task.

**Policy Objective**

3. **Services to other departments:** This section concerns the policy for the costing, charging and recovery of expenditures incurred in the transfer of goods or services between budgetary appropriations (within a department or between departments), to facilitate more accurate distribution of costs among programs, and to encourage the efficient use of available resources within the government.

4. This policy does not apply in those circumstances where the transfer of goods or services from one budgetary appropriation to another appropriation (either within a department or between departments) is subject to specific legislation or other Treasury Board direction. These circumstances include the following:

- departments and agencies with appropriations that fund organizations whose primary role is to provide goods or services to other departments of the government (i.e., common service organizations), or other appropriations within their own department or agency;
- situations where legislation, regulations or executive order specify that a rate or fee is to be charged and it is impractical or illegal to set a separate fee for transactions internal to the government;
- the disposal of surplus materials, which are subject to the Surplus Crown Assets Act;
- operations that are financed through the use of a revolving fund and are therefore subject to the provisions of the Treasury Board *Policy on Special Revenue Spending Authority*;
- situations where a service or facility is shared by two or more departments and where, by Treasury Board direction, one department incurs the costs and recovers a portion

of them from the other department(s). (In this situation total costs should be prorated among the departments according to a written cost-sharing arrangement.)

### **Departmental Responsibilities**

5. A written financial arrangement between the supplier and the recipient shall be entered into prior to the provision of goods or services. (If, in the opinion of the deputy head or delegate, an emergency situation exists, this stipulation could be waived but a written confirmation should be exchanged when possible.) This arrangement provides the basis for charging and recovering for the goods or services transferred between appropriations.

6. The financial arrangement should be negotiated by the responsible managers within the organizations concerned and include:

- a clear delineation of the respective responsibilities of the parties involved;
- specifications detailing the goods or services to be provided;
- date(s) when such goods or services are to be provided;
- the estimated costs involved;
- the terms and conditions under which recoveries will be made; and
- any other terms or conditions considered necessary.

### **Chronology of Changes or Amendments**

7. The chronology of revisions in format to this policy, as given below, do not imply that contextual amendments were made to the policy. The history of format revisions provided simply displays the format evolution of this policy.

- |  |                  |
|--|------------------|
| • Current Treasury Board Policy                  | June 20, 1997    |
| • Comptrollership Guide                          | October 15, 1996 |
| • Guide on Financial Administration (Chapter 10) | April 1, 1991    |

8. On June 20, 1997, the *Policy on Interdepartmental Charging and Transfers Between Appropriations* was appended to include Section 1 of the *Policy on Services to Other Departments*.

9. Section 1 of the policy on “Services to Other Departments” is virtually the same as section 10.4.2 found in Chapter 10, Accounting and Control of Revenue and Accounts Receivable, April 1991. This section of the policy has remained virtually unchanged since April 1991.

10. Section 2, relating to the “Use of Other Government Department Suspense Accounts” was formerly included as Ch. 5-4 of the TB Manual, Comptrollership, *Policy on Interdepartmental Charging and Transfers Between Appropriations*, October 15, 1996.

11. The current policy combines provisions on “Services to Other Departments” and the “Use of OGD Suspense Accounts” into one policy.

***Policy on Losses of Money and Offences and Other Illegal Acts Against the Crown***  
**Summary**

**Effective Date & URL**

August 1, 1993 - [http://www.tbs-sct.gc.ca/pubs\\_pol/hrpubs/TB\\_851/idicww-diicraft\\_e.asp](http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/TB_851/idicww-diicraft_e.asp)

**Policy Objective**

1. To ensure accountability for all losses of money and all allegations of offences and illegal acts against the Crown and other improprieties by reporting and investigating them, and taking appropriate action.

**Policy Statement**

2. It is government policy that:
- all losses of money and allegations of offences, illegal acts against the Crown and other improprieties be fully investigated;
  - suspected offences be reported to the responsible law-enforcement agency; losses and offences be reported to Parliament through the Public Accounts;
  - losses be recovered whenever possible;
  - measures be implemented to prevent future recurrences of losses and offences;
  - when a department considers that circumstances warrant it, disciplinary action be taken; and
  - managers who fail to take appropriate action or who directly or indirectly tolerate or condone improper activity be themselves held to account.

**Departmental Responsibilities**

3. This policy applies to all organizations that are departments within the meaning of section 2 of the *Financial Administration Act (FAA)*.

4. Suspected cases of theft, fraud, defalcation or any other offence or illegal act *involving employees* that do not require an immediate response by a police agency may be referred to departmental legal services for an opinion on the seriousness of the incident before further action is taken (see paragraph 1.2 of Appendix C of the Policy on *Losses of Money and Offences and Other Illegal Acts against the Crown*). Otherwise, *all* losses of money and suspected cases of fraud, defalcation or any other offence or illegal act against Her Majesty must be reported to law-enforcement authorities and the TBS as outlined in Appendix C.

5. Departments must ensure that employees are aware of, and are periodically reminded of: this policy; their potential liability under section 78 of the *FAA* [R.S.C.

1985, c. F-11] and sections 122 and 126 of the *Criminal Code*; and their personal responsibility under paragraph 80(e) of the *FAA* to report any knowledge of:

- a contravention of the *FAA* or of its regulations;
- a contravention of any revenue law; or
- any fraud against Her Majesty.

6. Departments must take reasonable measures to protect the identity and reputations of both the persons reporting offences and improprieties and the persons against whom allegations are made and, in particular:

- take prompt action on any complaints of harassment of persons who have made legitimate reports; and
- consider taking appropriate disciplinary action, when warranted, in cases where a person has made wilful or malicious unfounded allegations.

7. When a person is accountable for a loss of money, the loss must be recovered from that person unless:

- in cases where legal proceedings (including proceedings involving a formally-constituted administrative tribunal like the Public Service Staff Relations Board) are required to effect recovery, the Deputy Attorney General advises against such action or recommends that proceedings be discontinued; or
- the Treasury Board has specifically authorized the department to waive recovery due to extenuating circumstances.

8. When a department determines that disciplinary action is warranted, such action is distinct from any steps that may be taken by law-enforcement authorities.

9. Departments shall appoint a coordinator, functionally responsible to the deputy head or to the departmental executive committee, to serve as a single focal point for reporting and coordinating subsequent action. This:

- ensures that employees know to whom they should report any allegations or suspected incidents as required by this policy;
- avoids interpersonal problems that might arise should employees be required to report suspicions to their immediate supervisors;
- ensures that the departmental security officer is notified immediately of any possible breaches of security; and
- ensures that all allegations are properly reported and followed up, and that all parties having an interest in a particular incident (e.g. senior management, finance, staff relations, security, internal audit, the RCMP, etc.) are brought into the picture.

### **Monitoring**

10. This policy will be monitored through reports submitted by departments to the RCMP, the Treasury Board Secretariat and Public Accounts.

## Chronology of Changes or Amendments

11. The chronology of revisions in format to this policy, as given below, do not imply that contextual amendments were made to the policy. The history of format revisions provided simply displays the format evolution of this policy.

- Current Treasury Board Policy April 1, 1995
- Comptrollership Guide October 1, 1994
- Financial Management Volume August 1, 1993
- Guide on Financial Administration (Section 10.9, Appendix 10D, Appendix 10E) April 1, 1991

12. The current policy contains three appendices: Appendix A – Guidelines; Appendix B – Definitions; and Appendix C – Detailed Requirements. The Guidelines contain provisions on accountability vs. responsibility; the accountability of managers and the protection of the rights of individuals.

13. The version of the current policy on the TBS web site is virtually identical to the version of the policy that appeared in hardcopy as Ch. 4-7 of the Program Management and Comptrollership section, Comptrollership volume, TB Manual, October 10, 1994. The latter version includes sidebar margins to identify where amendments have been made. Most of these amendments relate to the reporting requirements set out in section 1 of Appendix C of the Policy on Losses and more specifically, sections 1.2 and 1.5.

14. In the current policy, section one of Appendix C of the Policy on *Losses of Money and Offences and Other Illegal Acts against the Crown* elaborates on the policy requirements – all are considered mandatory. Reporting instructions are included as are guidelines that set out the procedures.

15. In June 1992, amendments were made to:

- Authorize the Office of the Comptroller General to temporarily request more frequent or more extensive reporting than would be required by the revised policy, where a particular incident or program warrants being followed more closely;
- Clarify the definition of the scope of incidents covered by the policy;
- Provide guidelines on confidentiality, to protect the rights of both persons reporting incidents and the accused;
- Provide departments with certain discretion in dealing with minor, employment-related incidents;
- Provide for departments to set their own guidelines on when their Minister should be informed of an incident; and
- Allow for the authority to write off losses to be delegated to senior officials.

***Policy on Payment Requisitioning and Payment on Due Date - Summary***

**Effective Date & URL**

July 15, 1996 - [http://www.tbs-sct.gc.ca/Pubs\\_pol/dcgpubs/TBM\\_142/2-6\\_e.asp](http://www.tbs-sct.gc.ca/Pubs_pol/dcgpubs/TBM_142/2-6_e.asp)

**Policy Objective**

1. To ensure that all payments and all other charges requisitioned against the Consolidated Revenue Fund are timely, properly authorized and legal.

**Policy Statement**

2. It is government policy to pay on the due date, according to contract or statute, amounts that represent a legitimate obligation, including interest on late payments, and that meet the requirements of section 33 of the FAA.

**Departmental Responsibilities**

3. This policy applies to all organizations considered to be departments within the meaning of section 2 of the *Financial Administration Act* (FAA), and to Crown corporations required to use the CRF (Consolidated Revenue Fund).

4. Requirements relate to certification of all requisitions for payment or settlement; payment authority; signing authority pursuant to both sections 33 and 34 of the FAA with respect to a particular payment; payment to suppliers of goods and services; interest on payments; timing of payments; settling of interdepartmental accounts; providing the Receiver General with the means to authenticate transactions requiring authorization under section 33 of the FAA and with the data required to issue the payment on the due date. Procedural requirements to deal with payment or settlement are also outlined.

**Monitoring**

5. Departments will conduct internal audits of their compliance with this policy, and TBS will monitor the effectiveness of this policy through the review of departmental internal audit reports. Furthermore, TBS will develop a central database of payment information based on periodic reports from departments.

**Chronology of Changes or Amendments**

6. The chronology of revisions in format to this policy, as given below, do not imply that contextual amendments were made to the policy. The history of format revisions provided simply displays the format evolution of this policy.



- Current Treasury Board Policy - July 15, 1996
- Treasury Board Circular 1996-1 - February 6, 1996

7. The current version of the policy includes as Appendix A guidelines encouraging departments to establish standards of timeliness for each step in the processing of an invoice and to work PWGSC to submit their payment requisitions in electronic format.

8. Amendments were made in 1995 to a) eliminate the 15-day interest-free grace period; b) add an allowance for mailing time where payment is mailed, based on Canada Post's official standard of service, to the number of days for which it is payable; c) authorize TBS to put into effect, if warranted and cost-effective based on actual experience, a minimum "threshold" value of \$10, below which interest would not be paid automatically, but only on demand by the supplier; d) increase the rate paid, from the Bank of Canada "prime" plus 1.25% to that to be charged on overdue non-tax receivables (i.e. prime plus 3%).

*Policy on Responsibilities and Organization for Comptrollership - Summary*

**Effective Date & URL**

February 22, 1996 - [http://www.tbs-sct.gc.ca/pubs\\_pol/dcgpubs/TBM\\_142/1-2CM\\_e.asp](http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/TBM_142/1-2CM_e.asp)

**Policy Objective**

1. To ensure that the division of responsibilities and the financial management organization in the federal government support comptrollership.

**Policy Statement**

2. It is government policy that departments exercise sound comptrollership, and that the Comptroller General provide them with direction, advice and information.

**Departmental Responsibilities**

3. Deputy heads must designate a Senior Financial Officer (SFO). The SFO must have a direct reporting relationship to the deputy head. The SFO must devise and implement a financial management organization and processes in the department that will lay the foundations for good comptrollership. He/she must work with managers at all levels in the organization to ensure that they exercise their comptrollership responsibilities properly.

4. Departments must include SFOs when developing and implementing new programs or major projects, or when making changes to existing programs that will have or are likely to have material financial implications.

5. In the event that a SFO is convinced that an action his or her deputy head is proposing will create significant financial risk or will violate either the spirit or the form of the financial requirements of any legislation, regulation or government policy, he or she must make every effort to persuade the deputy head to follow a different course. As part of these efforts, the SFO must seek the opinion and advice of the Deputy Comptroller General.

6. If the deputy head does not accept the advice offered by the SFO, then the SFO must request that the deputy head seek the advice of the Comptroller General before taking a final decision. The deputy head must then discuss the matter with the Comptroller General.

7. The Comptroller General, on behalf of the Treasury Board, must establish and communicate an efficient and effective policy framework for financial management in support of comptrollership in departments.

8. The Comptroller General must establish a monitoring and review function to support departments in carrying out their own assessments of comptrollership. This function will also obtain reasonable assurance for the Treasury Board that departments understand the comptrollership requirements and are properly implementing them.

9. The Comptroller General must designate a Deputy Comptroller General.

### **Monitoring**

10. Departments must conduct reviews of financial management accountability on an on-going basis.

11. These reviews are designed to provide assurance to deputy heads that:

- their managers deliver programs giving due consideration to obtaining the best possible value from public resources;
- their managers make decisions in light of timely, relevant and reliable financial information, analysis and advice;
- cost-effective controls, suitable to the government environment, are in place to safeguard assets and to ensure probity;
- transactions are authorized before they are entered into;
- their managers understand and report appropriately on their financial accountability;
- and
- the financial management organization, systems and processes meet the department's current needs.

12. The Comptroller General will use his or her discretion in deciding whether to intervene on a strategic basis in the development and implementation of new programs or major projects, or in the material modification of existing programs.

13. In the event that a department excludes the SFO when designing or implementing a new program or major project, or when making material modifications to an existing program, or in the event that the SFO is experiencing conflict with his or her department, the Comptroller General and the TBS may intervene, at the discretion of the Comptroller General. The intervention could include formally expressing concern to the department, meeting with the parties and acting as a mediator, or demanding that the SFO be included. If the intervention fails to produce satisfactory results, the Comptroller General must inform the Treasury Board and seek its advice on possible courses of action.

### **Chronology of Changes or Amendments**

14. The chronology of revisions in format to this policy, as given below, do not imply that contextual amendments were made to the policy. The history of format revisions provided simply displays the format evolution of this policy.

- Current Treasury Board Policy

April 10, 1996

- Comptrollership Guide April 10, 1996
- Financial Management Volume December 31, 1991
- Guide on Financial Administration (Section 2.3, 2.4, Chapter 3) April 1, 1991

14. The revised *Policy on Responsibilities and Organization for Comptrollership* was issued on February 22, 1996. This policy was built upon a continuum of earlier versions as outlined in the section “Chronology of Policy format revisions”. It defines comptrollership within the Government of Canada and has the objective of ensuring that the division of responsibilities and financial management organization in government departments support comptrollership. It also sets out the Comptroller General’s responsibilities to provide departments with direction, advice and information.

***Policy on Transfer Payments - Summary***

**Effective Date & URL**

1. This revised policy available at [http://www.tbs-sct.gc.ca/pubs\\_pol/dcgpubs/TBM\\_142/ptp\\_e.asp](http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/TBM_142/ptp_e.asp) was effective June 1, 2000. The approved terms and conditions for existing transfer payment programs continue to apply until their expiry date or March 31, 2005 (whichever comes first), at which point departments must obtain TB approval to replace or renew such terms and conditions.

**Preface**

2. Transfer payments are transfers of money, goods, services or assets made from an appropriation to individuals, organizations or other levels of government, without the federal government directly receiving goods or services in return.

3. Amongst others, the major types of transfer payments are grants and contributions. The type of transfer payment that a department uses to meet its program objectives is determined by the departmental mandate, business lines, clients and an assessment of risks. All transfer payments are subject to public scrutiny and must be managed in a manner that is open and transparent to the public, and with due regard to economy, efficiency and effectiveness. Basic principles of parliamentary control, authority and accountability establish the boundaries within which decisions are made on the use and management of transfer payments.

**Policy Objective**

4. To ensure sound management of, control over, and accountability for transfer payments.

**Policy Statement**

5. It is government policy:
- to make transfer payments to further approved federal government policy and program objectives;
  - to manage transfer payments in a manner sensitive to risks, complexity, accountability for results and economical use of resources; and
  - to require repayment of contributions made to a business that are intended to allow it to generate profits or increase the value of the business, unless otherwise approved by TB.

## **Approval of Terms and Conditions**

6. Departments must obtain TB approval of the terms and conditions for a class of grant recipients, and the terms and conditions of all contribution programs either to a specific recipient or a class of recipients. Exceptions are legislation that specifically authorizes a Minister to establish such terms and conditions and specifies the amount and the recipient as well as those instances where the TB has specifically delegated authority to do so to the responsible Minister.

## **Departmental Responsibilities Under the Policy (see s. 7.1)**

7. Departments must establish policies and procedures to ensure that:
- effective financial and program controls are designed and implemented within departmental transfer payment programs;
  - due diligence is exercised in the selection and approval of recipients of transfer payments and in the management and administration of the programs;
  - the senior financial officer in conjunction with senior program managers develops efficient and effective accounting and other procedures to ensure that payment requests meet the requirements of the *Policy on Account Verification* relating to sections 33 and 34 of the *Financial Administration Act* and the requirements of the *Payment Requisitioning Regulations*;
  - proper program and accounting records and other relevant documents are maintained to provide documentary evidence of decisions made and results achieved and to enable disclosure of the amounts paid to recipients of such payments;
  - a results-based management and accountability framework is prepared which provides for appropriate measuring and reporting of results, as related to the purpose of providing resources through transfers;
  - departmental capacity exists to effectively deliver and administer the transfer payment programs including monitoring, learning and training.
8. Departments must account for transfer payments in the Public Accounts as required by the annual Receiver General Directives on the Public Accounts. Departments must include in their Departmental Performance Reports evidence of results achieved and relate them to result commitments; they must also provide specific planned results in their Reports on Plans and Priorities for each transfer payment program with transfers in excess of five million dollars.
9. Departments must account for grants and contributions as outlined within the relevant *TB Accounting Standards*.
10. Departments must develop policies and procedures for adequate monitoring of results achieved under contribution agreements and for obtaining suitable information

from recipients and from third parties delivering programs to ensure departmental accountability.

11. Where a contribution is paid on the basis of achievement of performance objectives or the reimbursement of expenditures made, the recipient will provide an accounting statement and statement of progress against the achievement of performance objectives at the time of claiming for a payment. Contribution agreements should call for at least an interim and a final accounting of the use of funds and the results achieved, except for small contributions of short duration where the minimum requirement would be a final accounting (including provision for reporting against performance objectives).

12. To properly control advance payments, timely accounting must be obtained from recipients. Where practicable, an advance should be accounted for before any further advances are issued. Where advances are issued monthly and accounting for them monthly is neither practical nor cost-effective, they may be accounted for bi-monthly or quarterly, provided that there is reasonable assurance that the funds are being spent for authorized purposes.

13. Departments should determine the required frequency of accounting by recipients that minimizes the administrative costs of itself and the recipient, taking into account appropriate risk factors, the likelihood of failure or diversion of funds by the recipient to other purposes, and the department's previous experience with the recipient.

14. Departments are responsible for determining whether recipients have complied with the terms and conditions applicable to the contributions. This responsibility includes the audit of recipients when deemed necessary.

15. Departments must develop a risk-based audit framework for the audit of contributions including:

- determining which recipients are to be audited;
- selecting appropriate auditors or indicating the acceptability of auditors when retained by the recipient;
- determining whether the scope, frequency and scheduling of audits meet program requirements;
- coordinating audits with others involved in the audit of the same recipients; and
- determining follow-up action required on audit findings.

16. An audit of a recipient of a contribution may be undertaken by a departmental audit group or by an auditor under contract to the department.

17. The department may choose to rely on an opinion from a recipient's external auditor regarding compliance to any or all terms and conditions of the contribution. Such an opinion should be supported by audited financial statements and/or a statement of disposition of federal contribution funds. The department should obtain agreement from audit agents that contribution audits will be conducted according to generally accepted auditing standards and in conformity with the provisions of this policy.

18. Departments should adopt a single audit approach wherever appropriate. Departments and agencies should coordinate their activities in developing and carrying out their contribution audit plans by entering into cross-servicing agreements for audit coverage where feasible.
19. Departments should determine the scope of federal contribution audits where recipients are provincial departments or agencies after giving due consideration to prior audits undertaken by the province.
20. Departments should annually forward their plans for the audit of contribution recipients who are jointly funded by both the federal and provincial governments to the appropriate provincial officials.
21. Audits of recipients should be based on the suggested procedures for the audit of contributions contained within the TB publication [Guide on the Audit of Federal Contributions](#).
22. TB submissions for program approval of terms and conditions for grants to a class of recipients or for contributions should include the following:
- i. a clear statement of the objectives of the transfer payment program;
  - ii. a clear statement of how the transfer payments further approved program objectives, including identification of expected results and outcomes;
  - iii. a clear identification of the recipient or definition of the class of eligible recipients. If the intention is to include Crown corporations as qualified recipients, specific reference to their eligibility should be included;
  - iv. the proposed stacking limits, i.e., specific limits to the Total Government Assistance, (e.g. 50% of eligible project costs) and the method for determining repayments by the recipient for cases where such assistance exceeds the anticipated funding level;
  - v. a description of the supporting material required in an application from a prospective recipient, which should include a requirement to disclose the involvement of former public servants who are under the *Conflict of Interest and Post-employment Guidelines*;
  - vi. identification of the type and nature of expenditures that would be considered eligible costs under the contribution program;
  - vii. the maximum amount payable to each recipient;
  - viii. assurance that departmental systems, procedures and resources for ensuring due diligence in approving transfer payments and verifying eligibility and entitlement and for the management and administration of the programs are in place;
  - ix. the organizational positions, if any, that the Minister will delegate authority to approve, sign or amend contribution agreements and the parameters within which this authority may be exercised;



- x. where not otherwise specified in the delegation of financial signing authorities, the organizational positions to which the Minister will delegate authority to approve payment;
- xi. the basis and timing of payment (including such details as a schedule of advance and progress payments and applicable holdback provisions);
- xii. where advance payments deviate from the requirements of this policy, the justification and the associated cost to the government in terms of imputed interest (imputed interest is to be calculated by taking into account the number and amount of advances paid earlier than in the guidelines, the length of time in advance and an interest rate equal to the 90-day Treasury Bill rate);
- xiii. in the case of a repayable contribution, the conditions or events under which all or part of the contribution is repayable, a description of the process to be used to monitor potential repayment and to collect amounts due and the application of interest charges on overdue repayments;
- xiv. the number of years over which it is expected that the terms and conditions will apply and payments will be made, as well as the nature of any program review to be undertaken to assess the effectiveness of the transfer payment program prior to any proposed program renewal;
- xv. a results-based accountability framework including: performance indicators, expected results and outcomes, methods for the reporting on performance, and evaluation criteria to be used in the assessment of the effectiveness of the transfer payments;
- xvi. a risk-based framework for audit of recipients of contributions, an internal audit plan and a program evaluation plan of the transfer payment program, including expected funds to be budgeted for costs related to these requirements;
- xvii. when legislation provides that terms and conditions be approved by the Governor in Council, a draft of the appropriate Order in Council;
- xviii. an explanation of any proposed deviation, if any, from the requirements of this policy;
- xix. the additional cost of managing and administering the program as well as the source of such funds; and
- xx. any other factors considered appropriate under the circumstances.

### **Monitoring**

23. Departmental internal audit plans must include provision for the review of internal management policies, practices and controls of transfer payment programs. Terms of reference for audits should include determination of whether transfer payments are managed in accordance with this policy and an assessment of the adequacy of the departmental processes to track whether recipients have complied with the requirements of applicable contribution agreements.

24. TB Secretariat will monitor the effectiveness of this policy by reviewing departmental internal audit and program evaluation reports, conducting reviews where warranted, and assessing proposed terms and conditions for transfer payment programs. This policy will be reviewed at least once within each 5-year period.

### **Chronology of Changes and Amendments**

25. From a contextual perspective, changes to the *Repayable Contributions Policy* were incorporated in April 1990, to address:

- A requirement that all contributions to business be repayable (to enable government to recoup its investment in private sector projects)
- Establishment of specific guidelines for repayment terms (to address contributions paid under terms and conditions of federal/provincial Economic and Regional Development Agreements, and of the various sectoral sub-agreements and about contributions paid to aboriginal community corporations under native economic development programs)

26. The revised *Policy on Transfer Payments* was published as Chapter 2-12 in the new Comptrollership Volume on October 15, 1996. The October 1996 and the *Policy on Repayable Contributions* were cancelled and replaced by the revised *Policy on Transfer Payments* that came into effect on June 1, 2000. The revised policy is intended to improve the management of transfer payments as well as to consolidate several older policy announcements. The key issues addressed in the revised version are:

- Previously implicit requirements for effective management financial and administrative practices are made explicit;
- An emphasis on departmental responsibilities for due diligence in the approvals of grants and contributions, and for effective practices in the payment of grants and contributions and in the monitoring of the use of funds and achievement of results
- Departments will have to provide a fuller description for proposed grant and contribution programs. Includes:
  - A clear statement of objectives and expected results;
  - A results-based accountability framework;
  - Plans for internal audits and program evaluation as well as plans for a risk-based approach to the audit of recipients; and
  - A requirement for formal program evaluations prior to seeking renewal of programs.
- A renewal of terms and conditions of programs within five years, unless otherwise approved by TB;
- Adoption of the principle that transfer payment assistance is provided for projects only at the minimum level to further the attainment of the stated objectives and expected results of the transfer payment program;
- Application of effective cash management principles to provide payments to recipients at levels closer to their need, thereby avoiding interest costs for the federal government;

- Incorporation of the intent of the 1986 Cabinet policy on the stacking of assistance by requiring departments to address the aspect in their submissions for approval or renewal of transfer payment programs; and
- Clarification of third-party delivery arrangements.

## Summary of the *Policy on Internal Audit*

### Effective Date & URL

1. The Policy available at [http://www.tbs-sct.gc.ca/pubs\\_pol/dcgpubs/ia-vi/pia-pvi\\_e.asp](http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/ia-vi/pia-pvi_e.asp) was revised on April 1, 2001. This policy replaces Chapters 1 and 2 of the "Review" volume of the *Treasury Board Manual* dated July 31, 1994.

### Preface

2. Historically, the internal audit function in the federal government has primarily focused on reporting on identified problems and providing recommendations for remedial action. While these will continue to be important elements of internal audit, this Policy affirms the repositioning of the function as a provider of assurance services to departmental senior management. Essentially, assurance services are objective examinations of evidence for the purpose of providing an independent assessment of the soundness of risk management strategies and practices, management control frameworks and practices, and information used for decision-making and reporting. Internal audit differs from evaluation, which focuses on helping managers track and report on actual performance, and on helping decision-makers objectively assess program or policy results.

3. Assurances provided by the internal auditor, through audit engagements, provide management confidence on the soundness of management processes within the organization. They will also guide management in determining where the organization is most exposed to risk, and what remedial actions are available and appropriate. As the relevance of assurances provided are dependent on their timeliness, areas of higher risk and fundamental departmental financial and management systems need careful consideration in the department's risk assessment processes to ensure that assurances provided in these areas are still relevant,

### Policy Objective

4. To provide departmental management with objective assessments about the design and operation of management practices, control systems, and information, in keeping with modern comptrollership principles and thereby contributing to the government's continuous management improvement program and accountability for results.

### Policy Statement

5. 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 (as defined in [Appendix](#)

[A](#)) 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.

## **Departmental Roles & Responsibilities**

6. Deputy heads are accountable for establishing an appropriately resourced internal audit function that operates in accordance with this policy, including the standards contained in [Appendix B](#). Deputy heads must also:

- Establish an active audit committee that is chaired by a senior departmental executive and meets the intent of the guidelines in [Appendix C](#);
- Ensure that their head of internal audit has an unimpaired ability to carry out his or her responsibilities, including reporting audit findings to the deputy head and, as appropriate, to the Deputy Comptroller General;
- Ensure that their internal audit function has unlimited access to all departmental documents;
- Ensure that their internal audit function in its operations respects the spirit and intent of the *Access to Information and Privacy Acts*;
- Ensure that management action plans that adequately address the recommendations contained in internal audit reports are developed and included as part of the completed internal audit report; and
- Establish monitoring systems to ensure that management action plans responding to internal audit observations are successfully implemented.

7. Deputy heads must also ensure that TBS is:

- Informed on a timely basis of significant issues of risk, control, or other problems with management practices following their being reported to senior management;
- Provided in a timely manner with electronic copies in both official languages of all completed internal audit reports;
- Provided with copies of annual internal audit plans that describe internal audit activities, as approved by the departmental audit committee; and
- Provided with access to internal audit working papers upon request.

8. TBS, through its Centre of Excellence for Internal Audit and following a horizontal management process with departments, will:

- Seek and provide advice to deputy heads, heads of internal audit, and internal audit practitioners on the implementation of this policy, the development of departmental internal audit policies, annual audit plans and the application of professional standards;
- Establish an active monitoring process that provides timely information to treasury board on significant issues of risk, control, or other problems with management practices in departments;

- Develop a human resource strategy for the internal audit community to support departments in implementing this policy;
- Establish a framework to guide a formal evaluation, within five years, of the effectiveness of this policy; and
- Provide assistance to departments in evaluating the performance of their internal audit functions.

## **Monitoring**

9. Deputy heads are responsible for monitoring the performance of their department in respect to this policy.

10. In monitoring the effectiveness of this policy, TBS will be guided by the requirements of the Internal Auditing Standards for the Government of Canada ([Appendix B](#)) and guidelines for departmental internal audit committees and departmental internal audit management practices ([Appendices C](#) and [D](#) respectively).

11. An internal audit advisory committee composed of government and private-sector senior executives will be established to provide advice to TBS on internal audit policy, standards, community development strategies and benchmarks to be used in examining government-wide performance in meeting the objectives of this policy.

12. This policy will be evaluated and reviewed within 5 years. The TBS Centre of Excellence for Internal Audit is to establish the framework that will guide the evaluation of the policy.

## **Chronology of Changes or Amendments**

- January 1, 1992, *Internal Audit Policy* published as Ch. 2 in TB Manual
- July 31, 1994, with re-organization of TB Manual, TB Circular 1976-25 Measurement of the Performance of Government Operations and the 1992 “Evaluation and Audit” volume of the TB Manual were cancelled and superseded by Ch.1-1, Review Policy, Ch.1-2, Review Policy Guidelines and Annexes, and Ch.2-1, *Internal Audit Policy*
- April 1, 2001, Chs.1 and 2 of the Review volume of TB Manual (July 31, 1994) were cancelled and superseded by current *Policy on Internal Audit*

13. On January 1, 1992, the *Internal Audit Policy* was published as Chapter 2 in the *TB Manual*. When the *TB Manual* was re-organized in July 1994, Treasury Board Circular 1976-25, Measurement of the Performance of Government Operations and the 1992 “Evaluation and Audit” volume, *TB Manual* was cancelled and superseded by Chapter 1-1, Review Policy, Chapter 1-2, Review Policy Guidelines and Annexes; and Chapter 2-1, Internal Audit Policy.

14. It should be noted that, at the same time, Chapter 1, Program Evaluation, of the “Evaluation and Audit” volume, *TB Manual* and TB Circular 1981-25, Guide on the

Program Evaluation Function was cancelled and superseded by Chapter 3-1, of the “Review” volume of the *TB Manual*, July 1994.

15. In summary, prior to the 1994 re-structuring of the *TB Manual*, Internal Audit and Evaluation policies were contained in Chapter 1 of the *TB Manual*. Under the revised *TB Manual*, July 1994, the policies were split up – Internal Audit appearing in Chapter 2 and Evaluation appearing in Chapter 3; Chapter 1 set out the review policy.

16. Under Chapter 2 of the *TB Manual*, July 31, 1994, it was the *Internal Audit Policy*’s objective to ensure that internal audit contributes to improving the management and cost-effectiveness of program delivery activities and internal operations, and to strengthening accountability.

17. The monitoring provisions of the policy obliged TBS to monitor the policy’s implementation with regard to departmental use of internal audit to support departmental decision-making and accountability.

18. Chapters 1 and 2 of the “Review” volume of the *TB Manual*, July 31, 1994, were cancelled and superseded by the current *Internal Audit Policy* that came into effect on April 1, 2001.

**Evolution of the *Contracting Policy* and its Appendices with a Focus on Appendices U/Q**

1. A summary of pertinent policy provisions of the Contracting Policy and its appendices, including a summary of changes to Appendix K, are included as Annexes H-4 a and b. The current *Contracting Policy* is available on the TBS web site at [http://www.tbs-sct.gc.ca/pubs\\_pol/dcgpubs/Contracting/contractingpol\\_e.asp](http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/Contracting/contractingpol_e.asp).
2. The main body of the policy has remained relatively constant during the period relevant to this Inquiry. One change that may be of note is the change to policy provisions related to the use of Advance Contract Award Notices (ACANs) in October 2000 to provide for a mandatory 15-day period for bidders to submit statements of capabilities, as well as the independent review of these statements.
3. Also of note is a recent change (effective June 2003) to the section on monitoring (section 5 of the policy). The previous version of section 5.1 indicated that 2 mechanisms would be used "to monitor government contracting activity: departmental audits and an annual report on contracting." This section further indicated that the TBS "also conducts periodic reviews of contracts for the services of individuals, including those for less than \$5,000." This recent change strengthened monitoring provisions by explaining departmental accountabilities to put in place adequate control frameworks to ensure due diligence and effective stewardship of public funds. It also clarified the role of TBS in working with departments to address management issues identified through management reviews, evaluations, internal audits and transactions. This revision reflects that, given the volume of government contracting (almost 540,000 contracts per year valued at approximately \$12.3 billion, in addition to the 1.5 million acquisition card transactions), TBS established, in partnership with departments, a more robust and broad-based system of monitoring than had previously been the case. This commitment includes the development of a "Guide for Managers and Internal Audit: Monitoring Procurement and Contracting". In keeping with the principles of Modern Comptrollership, this guide focuses on management control systems rather than on specific transactions, and the effectiveness of such systems in managing procurement and contracting.
4. In terms of the different types of tendering approaches, departments are responsible for choosing the type of tendering approach (e.g., pre-qualified suppliers' list, standing offers, etc.) that best suits their requirements. Information on bid solicitation methods or types of tendering approaches is provided in the main body of the *Contracting Policy*, in addition to relevant appendices to the policy. Sections 10.7.3 to 10.7.28 of the policy provide a description of various tendering approaches and when it is appropriate to use them.



5. These types of tendering approaches can be competitive or non-competitive depending on the procedures used by departments. Note the definitions of "competitive contract" and "valid bid" (Appendix A to the *Contracting Policy*), as well as sections 4.1.9(c) and 10.7.28 of the policy for elements required to deem a contract competitive. In 2000, the policy surrounding the use of Advance Contract Award Notices (ACANs) was amended to provide for a mandatory 15-day period for bidders to submit statements of capabilities, as well as the independent review of these statements. The provisions of Appendix Q (discussed in detail later in this document), including those related to the different types of tendering approaches "are an integral part of the *Contracting Policy*"<sup>66</sup>. Appendix Q provisions are "a more precise elaboration of the expected conduct in terms of contract initiation, solicitation, evaluation and reporting for public opinion research and advertising services."<sup>67</sup>

6. The *Contracting Policy* also includes several appendices that address specific subjects related to contracting. These appendices are an integral part of the *Contracting Policy*.

#### *Contracting Policy - Appendix A*

7. Appendix A of the *Contracting Policy* provides key definitions related to the interpretation of the policy. These definitions were in effect during the period of the Commission's inquiry. An amendment in this Appendix that may be of note is the change to the definition of "competitive contract" in August 1998 to reflect the importance of the use of the electronic bidding methodology; Canada's obligations in the trade agreements related to limited tendering provisions; the need to indicate in advance contract award notices (ACANs) the GCR exception being used; the need to take into consideration mandatory evaluation criteria outlined in the bid solicitation documents; as well as to eliminate references to goods, services and construction contracts. Further, in 1998, the definition of best value was added to Appendix A. Finally, the definition of ACANs changed in November 2000 to reflect a change in the ACAN policy provisions as recommended by the Auditor General and the Public Accounts Committee, including consequential changes to references to ACANs in the definition for "competitive contract".

#### *Contracting Policy - Appendix B*

8. Appendix B is a copy of the Government Contracts Regulations. The key provisions are provided in Annex F. During the period relevant to the Inquiry, one key change took place in October 1996 when the threshold for solicitation of bids was reduced from \$30K to \$25K.

#### *Contracting Policy - Appendix C*

9. Appendix C outlines the limits under which departments may enter into and amend contracts. Contracts above these limits require the approval of the Treasury Board. A pertinent change to Appendix C is the June 1995 increase of PWGSC's service contracts limits for competitive contracts using electronic bidding from \$10M entry and

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<sup>66</sup> 1997 Appendix Q, Application section, paragraph 1.3.

<sup>67</sup> 1997 Appendix Q, Application section, paragraph 1.3.

\$5M amendment as Supply and Services, and \$3M entry and \$1.5 amendment by Public Works, to \$20M entry and \$10M amendment as PWGSC. Another change to this Appendix occurred in 1996 where the deadline for departments to report on their use of emergency contracting was extended from 30 to 60 days.

*Contracting Policy - Appendix K*

10. Appendix K contains mandatory annual reporting requirements, as referred to in section 5 (Monitoring) of the main body of the policy. An annual call letter provides additional information on the data and the format of the reporting requirements. The data assists in the preparation of the Purchasing Activity Report and changes have been made to this report further to recommendations from the Auditor General. These changes included, for example, segregated information on amendments and acquisition card transactions. The information contained in this report is supplemented by the information on contracting available through Contracts Canada, the government's statutory reports to Parliament, as well as internal audits and information from government web sites. A list of changes to this reporting requirement during the period relevant for the Commission's inquiry is included as Annex H - 4b.

11. Finally, as part of its commitment to make its operations more transparent by proactively disclosing information on its activities to strengthen public sector management, Budget 2004<sup>68</sup> commits departments to publicly disclose all contracts entered into by the Government of Canada for amounts over \$10K with only very limited exceptions such as national security. These new requirements will be phased in over time, starting with procurement contracts for goods and services.

*Contracting Policy - Appendix U (later renamed Q)*

12. In addition to the main body of the *Contracting Policy* and other appendices already mentioned, Appendix U (originally approved in 1994 and announced and published in paper format in Contract Policy Notice 1994-5 and the *Contracting Policy* manual, and as published electronically, along with all TB policies, in September 1997 as Appendix Q to the *Contracting Policy*) contains additional policy, guidelines and procedures pertinent to the issue of advertising. In 1994, the procurement related provisions for advertising services that had existed in the *Communications Policy* were also included in the *Contracting Policy*.

13. Appendix U/Q indicates that PWGSC is the only department with authority to contract for advertising services. It further provides solicitation procedures in relation to the use of a pre-qualified list of suppliers or electronic bidding, detailed evaluation criteria and method. Other sections include a provision related to market dominance, i.e. that no one contractor be awarded more than 25% of the total value of advertising contracts, as well as a provision that "only Canadian owned and controlled companies will be considered for advertising contracts".

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<sup>68</sup> See *Budget 2004 - Strengthening Public Sector Management* (<http://www.fin.gc.ca/budget04/pamph/pamgte.htm>).

14. Appendix Q also provides a definition of advertising, which includes “co-sponsorship initiatives... that are an extension or form part of an advertising campaigns.” The procurement contracts with communication agencies that were the subject of the audits in 2000 by PWGSC and 2003 by the Office of the Auditor General were event marketing campaigns to supplement advertising initiatives. Sponsorship activities, managed through procurement contracts that are not an extension to or do not form part of an advertising campaign, are subject to the main body of the *Contracting Policy*. Sponsorship activities managed through grants and/or contributions are subject to the Transfer Payments Policy. These provisions and definition were in effect during the relevant period for the Commission’s inquiry until January 2003 (see the following paragraphs for information on this change).

15. As approved in 1994, Appendix U also included a requirement for PWGSC to provide TBS with a quarterly report on advertising services contracts. Based on the data provided by PWGSC, TBS prepared Treasury Board submissions to present this information, focusing on the competitiveness and the market dominance aspects of these contracts. After a one-year trial period, the policy indicated that the TBS would also recommend to TB whether there was “a need to continue this reporting requirement, and if so, for how long”. This reporting requirement was cancelled in September 1996 in accordance with this provision in Appendix U.

16. In 1997, the TBS published its policies, including the *Contracting Policy*, on its website. Unused appendices were eliminated and Appendix U became Appendix Q. The 1997 Appendix Q version reflects decisions of TB on the elimination of the reporting requirement regarding advertising and public opinion research, the change to the GCRs threshold for solicitation of bids, as well as a change to Appendix C regarding the extension of the reporting on the use of emergency contracting limits from 30 to 60 days. The title was also changed to better reflect its content, i.e. the detailed provisions in the Appendix refer to advertising and/or public opinion research, not to all communications services generally. Contracts for communications services are subject to the *Contracting Policy*, not Appendix U/Q, unless they form part of advertising activities as defined in Appendix U/Q. As such, section 4 of Appendix U (section 1.2 of Appendix Q) indicates that: “Departments and agencies will adhere to the principles and procedures of the *Contracting Policy* when proposing to contract for communications services.” In the transition between Appendix U to Appendix Q, a sentence was added to clarify this point: “Contracts for basic communication of information are not covered by the policy and procedures described hereunder.”<sup>69</sup> Other administrative amendments were made, for example, the numbering of paragraphs.

17. In September 2000, the policy was updated to reflect organizational changes, e.g., the transfer of the Client Advisory and Public Opinion Research Directorate from PWGSC to the Canada Information Office. Subsequent changes were made to reflect further organizational changes relating to the creation of Communication Canada.

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<sup>69</sup> 1997 Appendix Q, Application section, paragraph 1.1.

18. In his May 23, 2002 Speech to the House of Commons on Ethics, Prime Minister Jean Chrétien asked the President of the Treasury Board to review sponsorship, advertising and public opinion research activities to ensure value for money and make recommendations for strengthening program management prior to the reopening of the House in September 2002. A summary of the review reports is provided in the Part VI of this document, “The Involvement of Treasury Board and the Secretariat Related to the Work of the Commission of Inquiry”.

19. It recommended the elimination of a single Communications Agency by department, a consideration of the use of a single-government-wide Agency of Record, and a consideration of various methods of payment other than commissions. It also recommended the use of various procurement tools (e.g. standing offers for low dollar value requirements and distinct competitions for major campaigns) to increase competition in this area.

20. To enable this Appendix Q was deleted and key policy provisions were incorporated into section 16.13 of the *Contracting Policy*. Section 16.13 provides links to key policies such as the Communications and Common Services Policies and retained key administrative provisions, such as the requirement for a project number and the use of PWGSC as a common services provider. The section also included a Canadian content provision for a "significant level of Canadian participation" to ensure that the work was completed in Canada, and the market dominance provision was removed. Further, the reference to “co-sponsorship initiatives” was removed from the definition of advertising and Treasury Board approved a formally established “Sponsorship Program” as a contribution program subject to the *Policy on Transfer Payments*.

**Listing of Pertinent Sections of the *Contracting Policy***

***Section 1 – Policy Objective:*** “The objective of government procurement contracting is to acquire goods and services and to carry out construction in a manner that enhances access, competition and fairness and results in best value or, if appropriate, the optimal balance of overall benefits to the Crown and the Canadian people.”

***Section 2 – Policy Statement***

***Section 4 – Contracting Policy Requirements:*** 4.1.1, 4.1.2, 4.1.3, 4.1.4, 4.1.5, 4.1.6, 4.1.8, 4.1.9

***Section 5 – Monitoring, Reporting Mechanisms and Audit and Evaluation:*** 5.1.1, 5.1.2, 5.1.3, 5.2.1, 5.2.2,

***Section 6 – References:*** 6.1.3.

***Section 8 – Authorities, Roles and Responsibilities and Common Services:*** 8.1.1, 8.1.3, 8.1.4, 8.2.1, 8.2.2, 8.9, 8.9.1, 8.9.2.

***Section 9 – Best Value:*** 9.1.1, 9.1.2, 9.1.3.

***Section 10 – The Government Contract Regulations, Acquisition, Requirements Definition, Selection, Establishing Price, Soliciting Bids and Selecting a Contractor, Receiving Bids:*** 10.1.1, 10.1.2, 10.2.1, 10.2.2, 10.2.3, 10.2.4, 10.2.5, 10.2.6, 10.3.1, 10.4.1, 10.4.2, 10.4.3, 10.5.1, 10.5.7, 10.5.9, 10.5.10, 10.5.11, 10.5.12, 10.5.13, 10.5.14, 10.6.1, 10.6.2, 10.6.3, 10.6.4, 10.6.5, 10.6.6, 10.6.7, 10.6.8, 10.6.9, 10.6.10, 10.6.11, 10.6.12, 10.6.15, 10.7.1, 10.7.2, 10.7.3, 10.7.4, 10.7.5, 10.7.6, 10.7.7, 10.7.8, 10.7.10, 10.7.18, 10.7.19, 10.7.20, 10.7.22, 10.7.23, 10.7.24, 10.7.25, 10.7.26, 10.7.27, 10.7.28, 10.8.1, 10.8.6, 10.8.7, 10.8.9, 10.8.10, 10.8.11, 10.8.12, 10.8.13, 10.8.19.

***Section 11 – Contract Award:*** 11.1.1, 11.1.2, 11.2.1, 11.2.2, 11.2.3, 11.2.4, 11.2.5, 11.2.6, 11.2.7, 11.2.10, 11.2.11.

***Section 12 – Contract Administration including Financial Considerations, Contract Documentation, Contract Performance and Non-Performance of Contractor, Protecting the Interests of the Crown:*** 12.1.1, 12.1.2, 12.1.3, 12.2.1, 12.2.2, 12.2.3, 12.2.4, 12.2.5, 12.2.7, 12.2.10, 12.2.11, 12.2.12, 12.3.1, 12.4.1, 12.5.4, 12.6.1, 12.6.2, 12.7.1, 12.7.11, 12.11.10.

***Section 16 – Service Contracts including Remuneration and Fee Policy, Total Value of the Contract and Consulting and Professional Services:*** 16.1.2, 16.1.3, 16.1.4, 16.1.5, 16.1.6, 16.5.1, 16.5.2, 16.5.3, 16.5.4, 16.5.5, 16.5.6, 16.5.7, 16.5.12, 16.5.13, 16.6.1, 16.11.1, 16.11.2, 16.11.3, 16.11.4, 16.11.5, 16.11.6, 16.11.7, 16.11.8, 16.11.9.

***Section 16.13 – Contracting for Advertising and Public Opinion Research Services:*** entire section pertinent.

***Appendix A – Definitions:*** Includes key definitions such as best value, competitive contract and valid bid, entire appendix pertinent.

***Appendix B – Government Contracts Regulations:*** GCRs are replicated in this annex.

***Appendix C – Treasury Board Contracts Directive:*** Sets out the basic contracting limits. Above these limits departments must seek TB approval. For PWGSC the limits for Services Contracts are: \$20M (\$10M for an amendment) for Electronic Bidding; \$10M (\$5M for amendment) for Traditional Competitive; and \$3M (\$1.5M for amendment) for Non-Competitive.

***Appendix K – Annual Reporting Requirement for Contracting Activities, along with Current Reporting Call Letter:*** Contains the mandatory annual contracting reporting requirements.

**Chronology of Appendix K: Annual Reporting  
Requirements for Contracting Activities**

Contracting Policy Notice and Title	Date	Key Changes to Reporting Requirements
1996-1 Government Procurement: Reporting Relating to Trade Agreements and Treasury Board Requirements	07-03-96	<ul style="list-style-type: none"> <li>This document supersedes all Contract Policy Notices or parts thereof issued to date on the subject of government procurement reporting. It also replaces the appendix on “Annual reporting requirement for contracting activities”</li> <li>Real property lease information is required for the Agreement on Internal Trade only</li> </ul>
1997-1 Binder on Procurement Reporting	08-01-97	<ul style="list-style-type: none"> <li>New DataCap system</li> </ul>
1997-1a Binder on Procurement Reporting	24-01-97	<ul style="list-style-type: none"> <li>Same as 1997-1, but using a different distribution list</li> </ul>
1997-7 Updating of the Treasury Board – Contracting Policy	25-09-97	<ul style="list-style-type: none"> <li>Appendices U, V, W, and X added to include the Trade Agreements</li> <li>Appendix U contains section 31.1. Reporting</li> </ul>
1998-1 Revised Guidelines on Procurement Reporting	15-01-98	<ul style="list-style-type: none"> <li>Change in reporting requirements for AIT from a fiscal year basis to a calendar year basis</li> <li>Requirements for PSAB</li> </ul>
1998-1a Revised Guidelines on Procurement Reporting	09-03-98	<ul style="list-style-type: none"> <li>Same as 1998-1, but using a different distribution list</li> </ul>
2000-1 Procurement Activity Reporting	08-03-00	<ul style="list-style-type: none"> <li>Requirement may be forthcoming for proposed <i>Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts</i></li> <li>Acquisition card data in summary data on contracts below \$25,000</li> </ul>
2001-1 Procurement Activity Reporting for Calendar Year (CY) 2000	19-02-01	<ul style="list-style-type: none"> <li>Reporting requirement for the <i>Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts</i></li> </ul>
2001-2 Purchasing Activity Report for CY 2001	10-12-01	<ul style="list-style-type: none"> <li>In the 1999 Purchasing Activity Report, segregated information is provided on amendments and acquisition card transactions. This Purchasing Activity Report supplements the extensive information on contracting available through Contracts Canada (<a href="http://www.contractscanada.gc.ca">http://www.contractscanada.gc.ca</a>), the government’s statutory reports to Parliament, as well as internal audits and information from government web sites.</li> </ul>

## *Common Services Policy - Summary*

### **Effective Date & URL**

1. The current version of the policy was posted on the TBS website at [http://www.tbs-sct.gc.ca/Pubs\\_pol/dcgpubs/TB\\_93/CSP\\_e.asp](http://www.tbs-sct.gc.ca/Pubs_pol/dcgpubs/TB_93/CSP_e.asp) on May 1, 2003. On March 29, 2004, the policy was amended to reflect changes to contracting for “Guard Services” (Canadian Corps of Commissionaires). This change is effective April 1, 2005, and it will be included in a forthcoming version of the policy.

### **Preface**

2. The *Common Services Policy* sets a strategic direction and provides authority to reform administrative management and the role of common service organizations (CSOs) to create a more streamlined, efficient, and responsive public service. The paper sets clear directions for the provision of common services to assist program delivery.

### **Policy Objective**

3. The objective of this policy is to ensure that departments and agencies can acquire responsive, cost-effective support for their program delivery.

### **Policy Statement**

4. CSOs will offer services to client departments in a manner that is most supportive of timely, effective, and economical delivery of programs to the public.

5. The government will make optional as many common services as possible, maintaining mandatory services only where there is an overriding reason. To this end, the TB will review all mandatory common services. If there is not an overriding reason to maintain their mandatory status, the TB will determine how the services can become optional in a cost-effective manner.

6. Departments may obtain optional services from a CSO on a negotiated basis.

### **Departmental Responsibilities**

7. CSOs, as suppliers of common services, are accountable for the following:
- establishing an environment consistent with the policy, e.g., oriented toward client service, promoting choice and flexibility for departments, and adopting a way of operating that is cost-effective, business-like, and responsive to the needs of client departments;



- providing quality goods and services that meet the requirements and specifications of client departments in a timely manner, while exercising a high regard for prudence, probity, and value for money;
- developing, in consultation with client departments and agencies, meaningful and visible standards of service and performance for the delivery of mandatory services;
- supporting the achievement of government-wide social, economic, and environmental objectives in acquiring or delivering goods and services;
- monitoring business volumes, levels of performance, resource use, financial results, and the implications of providing individual common services and reporting on these factors annually in Part III of the Estimates or in annual reports;
- on a periodic basis, conducting a systematic review and participating in TB reviews to assess mandatory and optional services. (The purpose of these reviews is to assess whether all or part of a mandatory service should remain mandatory and, if so, determine whether increased delegation of authority and flexibility can be provided to departments. Reviews of mandatory services must take into consideration how the common service in question can become optional in a cost-effective manner. These reviews must also account for the issue of access to governmental opportunities for regional suppliers. CSOs must seek the views of client departments when reviewing mandatory services. When CSOs undertake such reviews directly and propose major changes to services, these changes must be approved by the TB); and
- recommending to the TB the rates to be charged to client departments for the use of optional services and those mandatory services that are not funded by appropriation, except where the TB has authorized the CSO to set its rates directly. CSOs must consult client departments before recommending rates to the TB or setting them directly.

8. Federal departments, as users of common services, are accountable for the following:

- establishing an operating environment consistent with the *Common Services Policy*, i.e., oriented toward client service, promoting choice and flexibility for managers, and adopting a way of operating that is cost-effective, business-like, and responsive to the operational requirements of the department;
- determining the goods and services they need (i.e., what, when, and where) and whether they are receiving them on time and in an efficient manner;
- using mandatory services to meet their requirements when required by this policy and, whether using mandatory or optional services, doing so in a business-like manner;
- developing appropriate operating policies and monitoring procedures to assure proper use of all common service authorities, including any special delegations obtained, and to ensure that departmental authorities are exercised in a manner consistent with the provisions of this policy, taking corrective action when required;
- supporting the achievement of government-wide social, economic, and environmental objectives when acquiring or delivering goods and services; and
- providing feedback on the implementation of this policy to central agency policy centres and CSOs.

9. As clients of mandatory services, federal departments are accountable for the following:

- in the case of legislated mandatory services and services that may require Ministerial delegation to exercise an authority available on an optional basis, negotiating delegation instruments with CSOs when legislation permits and when delegation would better support achieving the objectives of this policy or program objectives; and
- in the case of services that are mandatory by TB policy, requesting exemptions from the policy when this would better support achieving the objectives of this policy or program objectives.

10. As clients of optional services or alternate sources of supply, federal departments are accountable for the following:

- making sound business decisions as to how they acquire goods and services, whether from CSOs or other sources of supply, including internal supply, shared services with other departments, or suppliers outside of government;
- acquiring services while maintaining a high regard for timeliness, efficiency, effectiveness, prudence, probity, and value for money;
- considering the effect of the service on the public and accessibility by the public and developing guidelines and criteria where appropriate; and
- observing applicable legislation and TB policies when contracting with the private sector.

11. The TB, through its Secretariat, is accountable for the following:

- evaluating the policy, including
  - (a) the integrity and continued relevance of the policy, and the common services provided under the policy, from the perspective of whether they meet the needs of federal departments and agencies in terms of timeliness, cost, and quality of goods and services,
  - (b) the logic and practicality of policy requirements in achieving the stated objective,
  - (c) the effectiveness of the policy in achieving the stated objective, and
  - (d) the appropriateness of the policy in the context of overall government direction and changes in the management environment;
- reviewing and approving the fees charged by CSOs to client departments for providing mandatory (where applicable) and optional common services (Where the TB has authorized the CSO to set its rates directly, examining them on a periodic basis to assure consistency with the principles established in this policy);
- monitoring reviews of mandatory and optional services undertaken by CSOs and the follow-up action taken on the results of the reviews;
- when necessary, reviewing mandatory and optional services with the common service provider and, when applicable, with other key departments involved (e.g., the Privy Council Office, the Public Service Commission of Canada, and policy departments, such as Industry Canada);
- considering, when necessary, the resourcing implications for the CSO and departments receiving authority when a mandatory service funded by appropriation

becomes optional, or when there is a delegation of authority for a mandatory service funded by appropriation;

- monitoring CSOs and departments to assess the extent to which they are following policy principles and fulfilling accountabilities under this policy;
- seeking the views of client departments and CSOs when evaluating the policy or conducting related reviews; and
- communicating with both CSOs and other departments to ensure that the policy is well understood and interpreted in the spirit of public service renewal.

### **Chronology of Changes or Amendments re: Advertising**

- July 16, 1992, TB approved a revised *Common Services Policy*; new emphasis on more responsive, cost-effective, and service-oriented common services and giving increased choice, flexibility, and delegation of authority for managers over how services are acquired.
- Publication of updated *Common Services Policy*, April 15, 1994, in Materiel, Risk and Common Services volume of the TB Manual (replaces 1990 version).
- June 23, 1994, *Contracting Policy* modified to implement “Guidelines on Contracting Communications, Public Opinion Research and Advertising” (see Ch.3-2, Materiel, Risk and Common Services volume of the TB Manual); these changes were reflected in the subsequent updates to the *Common Services Policy*.
- March 1, 1996, updated *Common Services Policy*, Chs.3-1 and 3-2 published, subsequently cancelled and superseded on February 17, 1997 by a further updated *Common Services Policy*.
- December 6, 2001, *Common Services Policy* and *Contracting Policy* amended to reflect transfer of communication services (includes advertising) from PWGSC to Communication Canada.
- December 12, 2002, *Common Services Policy* and *Contracting Policy* amended to reflect changes to advertising and public opinion research consequent to a review of these services by the President of the TB; updated policy published on May 1, 2003 (this is the policy currently posted on the TBS website).

### ***Common Services Policy* – July 16, 1992 amendment (included in TB Manual 1994)**

12. The *Common Services Policy* that came into force on July 1, 1990, was superseded by an updated version of the revised policy approved by TB on July 16, 1992. Revisions were required to address inconsistencies between the 1990 policy and the PS 2000 White Paper directions. The 1990 policy was premised on a supplier-driven and centrally controlled system of support for departments. The White Paper stressed the need for more responsive, cost-effective, and service-oriented common services, and giving increased choice, flexibility and delegation of authority to managers over how services are acquired.

13. On October 15, 1992, Richard Paton, Deputy Secretary, Administrative Policy Branch, TBS, sent a memo on “Common Services Policy and A&E Contracting Authority” to Deputy Heads of Departments and Agencies informing them that: “The TB

approved at its meeting of July 16, 1992, a new common services policy.” Notification to departments was further reinforced by a December 11, 1992, TBS Information notice on “*Common Services Policy*,” which was sent to Heads of Communications stating that TB had approved a new *Common Services Policy*.

14. The April 15, 1994, version of the Common Services Policy included in the TB Manual “Materiel, Risk and Common Services” replaced the Common Services Policy approved in 1990. It incorporated organizational changes, which had occurred, between 1992 and 1994 (i.e. Supply and Services Canada and Public Works Canada had been merged to form Public Works and Government Services Canada).

15. The *Common Services Policy*, Chapter 3-2 Mandatory Services, lists the mandatory services offered by CSOs, which departments must use, and Chapter 3-3 Optional Services provides a list of these services. With respect to requirements identified in the Common Services Policy related to advertising, public opinion research, and sponsorships:

Common Service	Common Services Policy (version April 15, 1994)
Advertising	<ul style="list-style-type: none"> <li>• <b>Mandatory</b> PWGSC (Advertising Management Group) co-ordinates all federal advertising.</li> <li>• <b>Mandatory</b> PWGSC (Canada Communication Group) contracts for all advertising services.</li> <li>• <b>Mandatory</b> The Agency of Record, an organization under contract with PWGSC, consolidates and purchases all media time and space requirements for government advertising. PWGSC negotiates long-term contracts with advertising agencies for production and media planning, and maintains a list of pre-qualified suppliers of advertising agency services.</li> </ul>
Public Opinion Research	<ul style="list-style-type: none"> <li>• <b>New Mandatory</b> PWGSC (Public Opinion Research Group) co-ordinates all decisions by departments to undertake public opinion research. (This was a change from the requirements of the 1990 Common Services Policy.)</li> <li>• <b>Optional</b> PWGSC (Canada Communication Group) can, if requested, contract public opinion research services for departments.</li> </ul>
Sponsorships	There is no reference to sponsorships in the Common Services Policy.

***Common Services Policy – 1996 changes***

16. The *Common Services Policy*, Chapters 3-1 and 3-2, were published on March 1, 1996. With respect to requirements identified in the Common Services Policy related to advertising, public opinion research, and sponsorships:

Common Service	Common Services Policy (version March 1, 1996)
Advertising	<ul style="list-style-type: none"> <li>• No change from 1994 version</li> </ul>
Public Opinion Research	<ul style="list-style-type: none"> <li>• <b>Mandatory (no change)</b> PWGSC co-ordinates all decisions by departments to undertake public opinion research.</li> <li>• <b>New Mandatory</b> PWGSC is the only contracting authority for public opinion research services, unless the PWGS Minister has delegated it.</li> </ul>
Sponsorships	<ul style="list-style-type: none"> <li>• <b>New</b> The definition of advertising in the Policy found in Chapter 3-2 includes “Co-sponsorship initiatives.” “Co-sponsorship initiatives, public relations, special events, direct marketing and promotion activities that are an extension or form part of an advertising campaign are included in the definition of advertising.” As such, the mandatory common service provisions, which apply to advertising also apply to co-sponsorships.</li> </ul>

***Common Services Policy – 1997 version***

17. An updated version of the *Common Services Policy* was published on February 17, 1997. Modifications included amendments addressing printing services as well as mandatory services provided by CSOs.

***Common Services Policy and Contracting Policy (Appendix Q) -- 1997***

18. “For the evolution of Appendix Q see Annex H-4 Contracting Policy – Appendix U (later renamed Q), pages 110 to 112, paragraphs 12 to 20. This Appendix to the Contracting Policy includes references to the related mandatory common services found in the Common Services Policy.”

19. With respect to advertising, public opinion research, and sponsorship activities, Appendix Q (s2.1) stated: “Departments and agencies must use PWGSC to contract to all public opinion research and advertising. The Minister of Public Works and Government Services is the only contracting authority for these services unless that Minister has delegated specific authority to another Minister for public opinion research and advertising.”

**Common Services Policy – December 6, 2001 amendment**

20. On December 6, 2001, the *Contracting Policy* and the *Common Services Policy* were amended to reflect the transfer of communications services from PWGSC to Communication Canada. The policy recognized Communication Canada as a provider of common services and it was authorized to continue the practice of recovering the costs for communication and publishing services provided.

**Common Services Policy – December 12, 2002 amendment (published as version July 8, 2003)**

21. In May 2002, the Prime Minister requested that the President of the TB review sponsorship, advertising and public opinion research activities to ensure value for money. This resulted in changes to the *Contracting Policy* and the *Common Services Policy*. The changes focussed primarily on activities related to contracting for advertising and public opinion research. The key change was the elimination of a mandatory policy requirement that all departments use a single agency of record. In the future, decisions on how best to use an agency of record to purchase media placement and undertake the administrative functions related to the recording of such placements are to be a business decision and should be treated as such. As well, it is clear that in certain instances, where foreign media must be used, there may be merit in having access to the expertise that a single Canadian agency may not be able to provide. Further, a clearer articulation of Communication Canada’s role was provided.

22. With respect to requirements identified in the Common Services Policy related to advertising, public opinion research, and sponsorships:

Common Service	Common Services Policy (version July 8, 2003)
Advertising	<ul style="list-style-type: none"> <li>• <b>Mandatory</b> Communication Canada co-ordinates government advertising activities.</li> <li>• <b>Mandatory</b> PWGSC contracts for advertising</li> </ul>
Public Opinion Research	<ul style="list-style-type: none"> <li>• <b>Mandatory</b> Communication Canada co-ordinates public opinion research</li> <li>• <b>Mandatory</b> PWGSC contracts for public opinion research</li> </ul>
Sponsorships	<ul style="list-style-type: none"> <li>• To the extent that sponsorship initiatives are included in the definition of advertising found in the Contracting Policy (s16.13) ... “public relations, special events, direct marketing and promotion activities that are an extension or form part of an advertising campaign,” ... then they are subject to the aforementioned mandatory common services for advertising.</li> </ul>

***Common Services Policy – forthcoming amendment***

On December 12-13, 2003, the Prime Minister announced several machinery-of-government changes including a wind-up of Communication Canada and a transfer of its responsibilities to Public Works and Government Services Canada and to the Privy Council Office. Proposed amendments to the *Contracting Policy*, *Government Communications Policy* and *Common Services Policy* to recognize this particular change will be presented to the TB for approval.

***Policy on the Internal Disclosure of Information Concerning Wrongdoing in the Workplace – Summary***

**Effective Date & URL**

1. The effective date of this policy available at [http://www.tbs-sct.gc.ca/pubs\\_pol/hrpubs/TB\\_851/idicww-diicraft\\_e.asp](http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/TB_851/idicww-diicraft_e.asp) is November 30, 2001. The policy was revised, to expand the definition of wrongdoing, on September 1, 2003. A provision approved March 8, 2004, retroactive to February 10, 2004, ensures protection from reprisal for public servants who provide information and testimony in good faith in the course of a parliamentary proceeding or an inquiry under Part I of the *Inquiries Act* related to the 2003 Report of the Auditor General.

**Rationale**

2. “...when an employee has reasonable grounds to believe that another person has committed a wrongdoing in the workplace, he/she should be able to disclose this information through clearly defined processes with confidence that he/she will be treated fairly and protected from reprisal”

**Policy Objective**

3. To allow employees to bring forward information concerning wrongdoing, and to ensure that they are treated fairly and are protected from reprisal when they do so in a manner consistent with this policy.

**Departmental Responsibilities**

4. Deputy heads must:
1. ensure that employees understand the requirement to use government information responsibly;
  2. promote a culture of open communication within their organisations where issues and concerns can easily be dealt with in the normal interaction between employees and their managers;
  3. establish internal mechanisms to manage the disclosure of wrongdoing, including – at a minimum – a designated Senior Officer, who will be responsible for receiving and acting on such disclosures. This Senior Officer will report directly to the deputy head on matters related to this policy but could report to another manager for administrative purposes and could be involved in other responsibilities within the organization. (Note: Departments that already have in place internal mechanisms to administer the disclosure of wrongdoing should ensure that they do meet the requirements of this policy, while others might want to take additional measures to respond to their specific mandate or organizational requirements.);



4. inform all employees of this policy, including the name, location and phone number of the Senior Officer who will be responsible for receiving and acting on disclosures;
5. ensure that disclosures are reviewed in a timely fashion and investigated when required, and that prompt, appropriate action is taken to correct the situation; and
6. protect from reprisal the employees who disclose wrongdoing in good faith.

5. Employees are responsible for:

1. using government information responsibly and in good faith in accordance with their duty of loyalty;
2. following the internal processes established to raise instances of wrongdoing in the workplace; and
3. respecting the reputation of individuals by not making trivial or vexatious disclosures of wrongdoing or, by making disclosures in bad faith.

6. Employees should also be aware of their responsibilities under the various policies and laws -- for example, the *Criminal Code*, the *Government Security Policy*, the *Values and Ethics Code for the Public Service*, the *Conflict of Interest and Post-Employment Code for the Public Service*, the *Policy on Losses of Money and Offences and Other Illegal Acts Against the Crown*.

7. Managers are responsible for:

1. informing their employees of this policy;
2. ensuring that their employees understand the requirement to use government information responsibly;
3. ensuring that their employees are aware of the processes available to them if they wish to disclose information concerning wrongdoing under this policy;
4. promoting openness in their interaction with employees;
5. acting promptly when information concerning wrongdoing is brought to their attention; and
6. protecting from reprisal the employees who disclose wrongdoing in good faith.

8. The Senior Officer shall be responsible for:

1. disseminating information on this policy, providing interpretation and related advice;
2. receiving, recording and reviewing disclosures of information concerning wrongdoing, establishing if there are sufficient grounds for further action and;
3. ensuring that prompt action is taken in all cases;
4. ensuring that procedures are in place to manage disclosures that require immediate or urgent action;
5. initiating investigations when required, reviewing and reporting the results of the investigations and making recommendations to the deputy head;
6. ensuring that the privacy rights of both parties, the employees making the disclosure and the employees implicated or alleged to be responsible for the wrongdoing, are respected;
7. establishing adequate procedures to ensure that the protection of the information and the treatment of the files are in accordance with the *Privacy Act* and the *Access to Information Act*;

8. maintaining information on the number of disclosures received, rejected, accepted; completed without investigation, of disclosures investigated; of disclosures still under consideration or investigation; and
  9. preparing an annual report to the deputy head. As a minimum, the annual report should cover the number of general inquiries and advice; the number of disclosures received from employees and their status (e.g. rejected, accepted, completed without investigations, still under consideration); the number of disclosures investigated, completed, still under consideration.)
9. The Office of Public Service Values and Ethics of the Public Service Human Resources Agency of Canada will:
1. provide policy support and interpretation to deputy heads and departmental Senior Officers;
  2. provide advice and assistance to the departmental Senior Officers on the handling of disclosures of information concerning wrongdoing, as required; and
  3. review the efficiency of mechanisms established in departments for the internal disclosure of information concerning wrongdoing.

### **Monitoring**

10. The Office of Public Service Values and Ethics will verify that all departments and organizations have in place internal disclosure mechanisms.
11. The PSHRMAC, departments and organizations will work together to monitor the activities and the results in achieving the objectives of this policy.

### **Chronology of Changes or Amendments**

- This policy came into effect on November 30, 2001
  - This policy was amended effective September 1, 2003, and
  - This policy was amended on March 8, 2004 (retroactive to February 10, 2004).
12. The effective date of this policy is November 30, 2001. The policy was revised to expand the definition of wrongdoing to incorporate a breach of the *Values and Ethics Code for the Public Service*, effective on September 1, 2003. A provision approved March 8, 2004, retroactive to February 10, 2004, ensures protection from reprisal for public servants who provide information and testimony in good faith in the course of a parliamentary proceeding or an inquiry under Part I of the *Inquiries Act* related to the 2003 Report of the Auditor General.

## Oversight and Monitoring

1. The roles and responsibilities of Treasury Board and the Secretariat as to oversight and monitoring are varied. To the extent possible, these roles and responsibilities have been described under the various sections addressing internal audit, contracting and procurement, comptrollership; financial management and through the role of the program sector in the Treasury Board submission process.
2. The Treasury Board *Policy on Active Monitoring* was introduced in June, 2001, at the same time that *Results for Canadians* expressed the government's commitment to deliver services to Canadians in new ways through a modern management framework, including a greater devolution of authorities to departments, and called upon TBS to work in productive partnership with departments to improve management practices. It was also the time of the controversy surrounding grants and contributions managed by the former Human Resources Development Canada (HRDC).
3. The Policy sets out requirements for both departments (all FAA Schedule I, I.1 and II institutions) and for the Treasury Board Secretariat, which centre on the monitoring of management practices and controls, the identification and sharing of information on areas of risk and vulnerability, and appropriate remedial action.
4. In the case of departments, the Policy calls on them to:
  - Establish a capacity to actively monitor management practices and controls;
  - Develop and maintain an ability to detect and communicate significant risks, potential and actual control failures and other management vulnerabilities;
  - Take timely and effective action to address deficiencies in management practices and controls; and
  - Ensure timely communication of significant management concerns to TBS.
5. In the case of TBS, the Policy calls for on it to:
  - Work in partnership with departments to monitor management practices and controls in order to develop an understanding of the current state of these across government;
  - Support departments in developing tailored solutions to management issues and concerns;
  - Lead and support collaborative government-wide approaches to improvement; and
  - Assess on an ongoing basis the effectiveness of TB policies, and recommend to TB amendments and new policies as required.

6. TBS is also called upon to ensure that departments take timely and effective action to resolve serious management issues and, where warranted, to make appropriate interventions.

7. The Policy is under active review as part of the Secretariat's Policy Suite Renewal, the broad objectives of which are to ensure that Treasury Board's policies are clear, enforceable and relevant and where a policy is the most appropriate instrument (as opposed to directives, guidelines or other mechanisms). This review must also take into account changes that have occurred since policies were introduced or last amended.

8. In the case of the *Policy on Active Monitoring*, the Secretariat is considering recommending to Treasury Board that it be rescinded for a number of reasons:

- The level of generality in which parts of the policy are written raises unrealistic expectations;
- It deals with an approach to management responsibilities for which a policy is not necessarily the most appropriate tool;
- It was written at the time of the former HRDC controversy and needs to be re-evaluated in light of the current environment and experience with the challenges in implementing the policy in its current form; and,
- Introduction of the *Management Accountability Framework*<sup>70</sup> has made much of the policy redundant.

9. In the event that the policy was to be rescinded, elements would be retained as fundamental working principles for the Secretariat and clear expectations of departments.<sup>71</sup>

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<sup>70</sup> See Annex M for more details on *Management Accountability Framework*

<sup>71</sup> These elements are outlined in the Roles and Responsibilities of Treasury Board and the Secretariat – *Oversight* – at pages 16-17.

**Review of the *Financial Administration Act***

1. This review is examining how to strengthen the rules governing compliance, including the prevention and sanction of mismanagement. Under this review, the government will assess whether current legislation and policies -- including investigative and disciplinary authorities -- effectively support a modern approach to comptrollership. The *Financial Administration Act* is the statutory framework for the general financial management, accountability, and oversight of the public service and Crown corporations.
2. It will also seek to determine:
  - what compliance mechanisms are more likely to prevent and deter mismanagement in the public sector;
  - whether criminal sanctions for breaches of the Act need to be updated;
  - ways to hold former public servants, employees of Crown corporations, and public office holders accountable for past breaches of the Act; and,
  - options to facilitate financial recoveries in instances where mismanagement has resulted in the loss of public funds.

## **Review of the Governance of Crown Corporations**

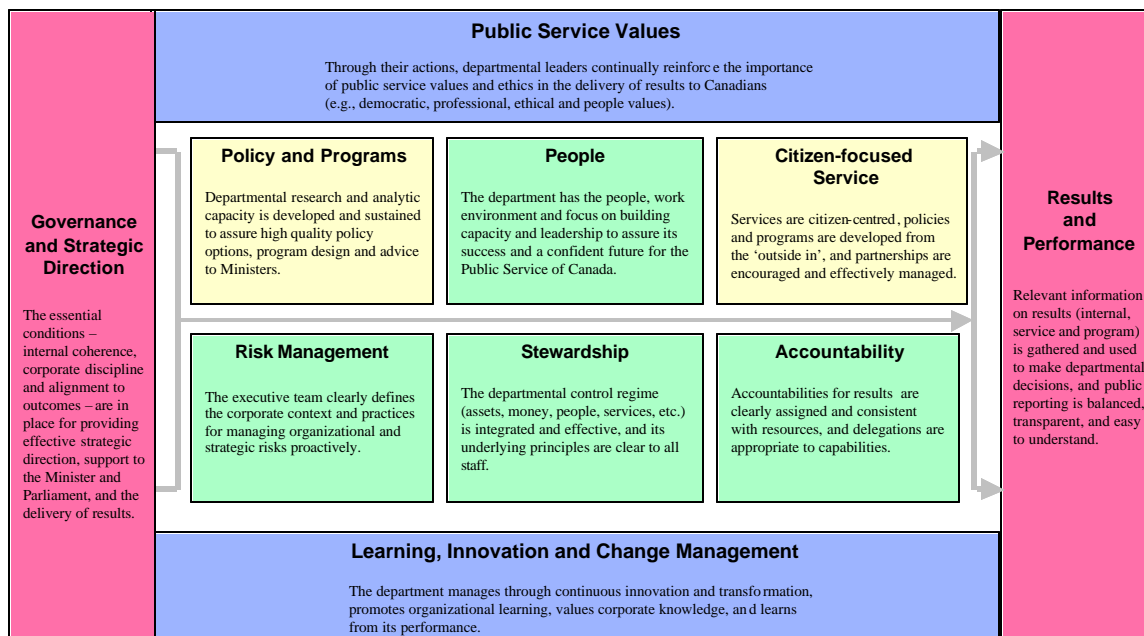
1. This review is assessing the governance and accountability regime for Crown corporations under Part X of the *Financial Administration Act* (FAA) and other Privy Council Office, Department of Finance, and Treasury Board policies and guidelines, as well as the regime for Crown corporations exempt from Part X of the FAA.
2. The review will include:
  - an assessment of the capacity of Boards of Directors, Ministers, the Treasury Board Secretariat, the Department of Finance, the Privy Council Office and Parliament to effectively fulfil their responsibilities; and
  - ways to strengthen management, transparency and oversight of the governance and accountability framework for Crown corporations.

**Review of Accountabilities and Responsibilities of Ministers and Senior Public Servants**

1. This review is seeking to clarify the roles, responsibilities and accountabilities of Ministers and senior public servants. It will be supported by independent, third-party experts in parliamentary affairs and public administration including Professor Donald Savoie, former Auditor General Denis Desautels, and the former Clerk and Deputy Clerk of the House of Commons, Robert Marleau and Camille Montpetit.
  
2. The review is examining:
  - who is accountable for what and to whom?
  - how well are accountabilities and responsibilities understood by Ministers, political staff and senior public servants? and
  - what changes are needed to strengthen the accountability of Ministers and/or public servants?

**Overview of the *Management Accountability Framework***

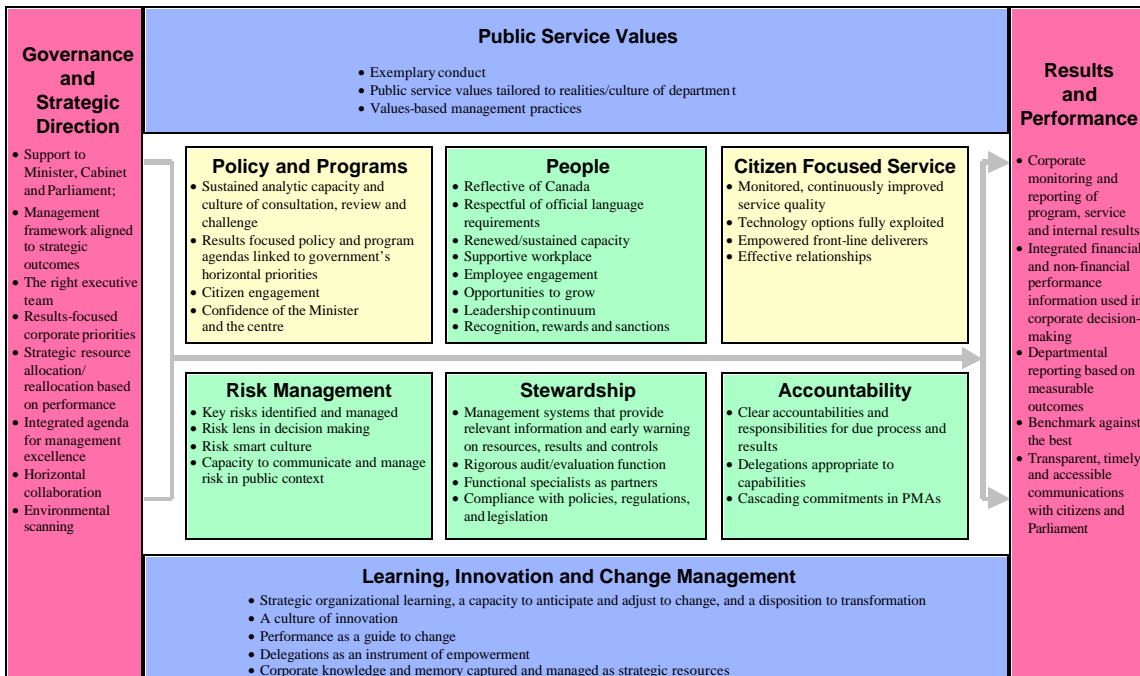
1. The *Management Accountability Framework* is intended to translate the vision of modern public service management, as established in *Results for Canadians*, into a set of management expectations. The Framework reflects the many management-focused initiatives currently underway and the vision they share. In so doing, it provides a means to understand and connect various TBS management improvement initiatives.
2. The Framework focuses on management results rather than required capabilities; provides a basis of engagement with departments; and suggests ways for departments both to move forward and to measure progress. It consists of 10 essential interdependent elements of sound management, followed by a series of indicators and associated measures. It recognizes that the role of public service employees is to translate the direction provided by government into results for citizens.
3. Below is a graphical representation of the *Management Accountability Framework*.



***Indicators***

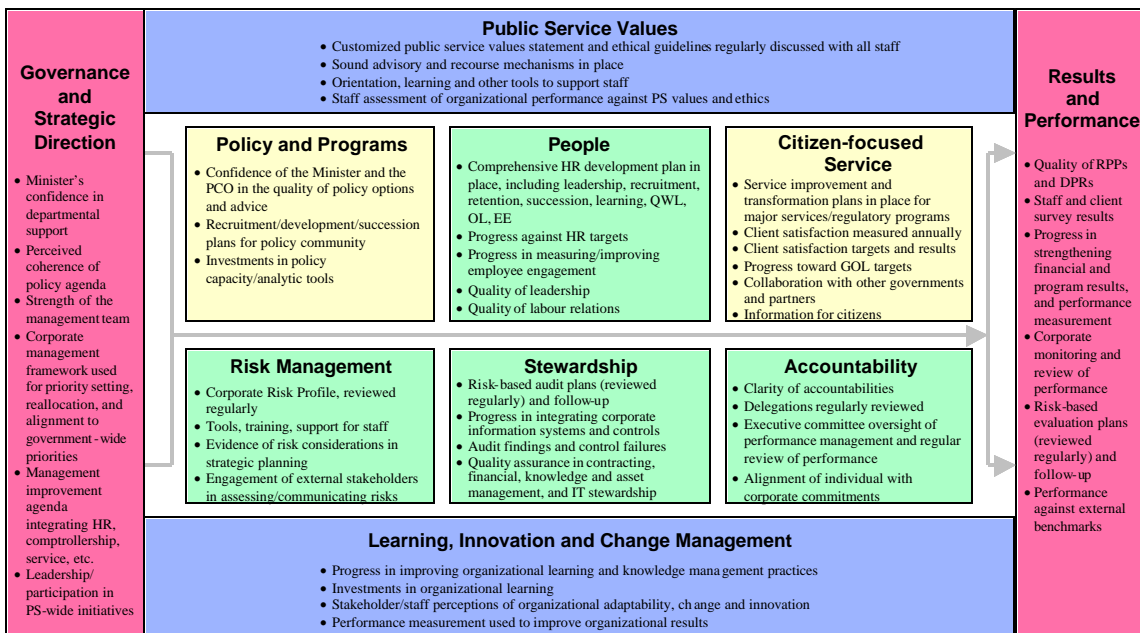
4. Graphic 2 presents the indicators for each expectation in the framework. These indicators are meant to convey the breadth and meaning of the expectations. By setting out the objective for each of the 10 elements, they also help to gauge progress toward those objectives.





### Measures

5. Graphic 3 presents the measures that can be used to assess progress toward the objectives described by the indicators. While the expectations and indicators of management excellence should remain relatively stable over time, measures of management performance are likely to evolve as conditions, priorities, and government-wide targets change.



## *Implementation*

6. Departments and agencies need to be able to demonstrate progress in implementing the Framework. It is recognized, however, that not all 10 expectations can be achieved at once. The Framework should not be construed as prescriptive; every department and agency must chart its own course to higher organizational performance. Within available resources, choices will have to be made: departments and agencies may need to focus on improving some areas more than others, and the priorities may differ from one organization to another. Nonetheless, the intent is that all departments and agencies demonstrate progress in each of the 10 elements.

## ANNEX N

### **Responses to Questions Posed / Issues Raised by Counsel to the Commission of Inquiry Respecting Treasury Board and Treasury Board Secretariat**

To prepare for the hearings, Counsel to the Commission of Inquiry invited Treasury Board Secretariat officials along with representatives from Crown Counsel to provide information sessions. These focussed on the expenditure management system, on the Treasury Board submission process, on legislation, regulations, policies and guidelines relevant to the Inquiry, and on controls, monitoring and accountability functions.

Following the sessions, Sophie Nunnelley and Charlotte Kanya-Forstner prepared a memorandum to Bernard Roy, Neil Finkelstein and Guy Cournoyer on their understanding of the information provided in the sessions. A copy of the summary was also provided to TBS officials to enable them to verify accuracy and provide clarification where needed. This resulted in the preparation by TBS officials of this *Document Prepared by the Treasury Board of Canada Secretariat for the Commission of Inquiry into the Sponsorship Program and Advertising Activities* and its annexes. The questions/issues raised in the memorandum or in additional sets of questions asked of TBS officials in requests made by Commission Counsel on June 11<sup>th</sup>, July 14<sup>th</sup>, July 23<sup>rd</sup> and August 13<sup>th</sup> are answered in part or in full in the main body of this document. Annex N has been prepared to complete these responses and to assist the Commission in locating the responses to the questions.

#### **1. Studies on the independence of internal departmental audit groups, and possible alternatives. (Please provide the actual studies.)**

We are not aware of any studies on the specific subject of the independence of internal departmental audit groups and possible alternatives. As part of the development of the new *Policy on Internal Audit* that was promulgated effective April 1, 2001, TBS conducted a study and published a report in January 2000 entitled “*Study of Internal Audit in the Federal Government*”. Under the heading, “Structural Considerations”, the study explored the issue of centralizing the internal audit function as some provinces have done. On balance, the study concluded that the current decentralized structure is appropriate. The study is available at [http://publiservice.tbs-sct.gc.ca/ia-vi/policies-politiques/study-etude/study-etude\\_e.asp](http://publiservice.tbs-sct.gc.ca/ia-vi/policies-politiques/study-etude/study-etude_e.asp).

#### **2. The creation of CCSB and any related Treasury Board documents (e.g., Treasury Board submissions).**

On March 4, 1999, Treasury Board reviewed the PWGSC Business Plan 1998-99 to 2000-01; the documentation makes reference to the new Communications Coordination Services (CCS) business line. Furthermore, mention is made of the CCS business line in the Planning, Reporting and Accountability Structure 1999 for PWGSC that went to TB on November 25, 1999.

3. **A letter dated August 28, 2000 to Richard Neville from Pierre Tremblay states his position that CCSB “has been consistent in application” of the Contracting Policy and Appendix Q. A response letter from Richard Neville, date-stamped September 14, 2000, sets out the general requirements of the Contracting Policy, and in particular, suggests that price becomes a consideration only at the time that individual suppliers are selected from the pre-qualified supplier list.**

The letter to Richard Neville from Pierre Tremblay and the response letter from Richard Neville, date-stamped September 14, 2000 are discussed in answers to questions 3 (a), (b) and (c) below

a) **General explanations of this letter:**

This letter was prepared in response to a letter from Pierre Tremblay dated August 28, 2000 where Mr. Tremblay advised that he had met with Ralph Heintzman and Jane Cochran to discuss an issue arising from the application of Appendix Q. The letter states “it would be most helpful if we could obtain a written statement confirming this within the context of the application of the contracting policy”. At no time did TBS officials provide confirmation that CCSB’s management practices complied with the TB *Contracting Policy* nor with the Secretariat’s advice. Given the policy compliance concerns raised in the PWGSC 2000 report of the internal audit of sponsorship activities, TBS indicated that it would work with CCSB to develop a management action plan to address the recommendations in that report.

b) **In the presentations made by individuals from Treasury Board Secretariat, there have been several discussions of price, and when obtaining prices (?) from suppliers is a necessary part of a competitive process. We would like clarification on this point. If their view is that price is not a necessary component, why not? Was making consideration of price compulsory ever considered?**

Price must be a factor in awarding a contract, but it need not be a factor in preceding decisions and choices such as the establishment of a short list or approved suppliers.

The *Treasury Board Contracting Policy* requires that price be part of a competitive tendering process. Section 10.7.28 of the *Contracting Policy* states “Proposal competitions in which the price element is not included do not meet the definition of a valid bid. Consequently, the competitive authority dollar levels may not be used when the contract is awarded.”

**valid bid** (*soumission valide*) - **a priced offer** that is either unsolicited or is in response to a solicitation that meets all the requirements stipulated in that solicitation

There are many policy requirements related to pricing (see sections 4.1.9, 10.7.28 of the *Contracting Policy*, the definition of “competitive contract” in Appendix A further to that of “valid bid” outlined above, as well as section 4.2.3 of Appendix Q of the *Contracting Policy*).

The role of price is also reflected in the TBS reply to Mr. Tremblay’s letter based on the method of supply that CCSB had indicated it was seeking to use, i.e. establishments of lists of qualified suppliers: “prices from suppliers should be asked when a need for procurement arises and qualified suppliers are contacted. Fair or best value would then be pursued at that time, amongst qualified suppliers.” Further, TBS’s views with regards to policy compliance informed its position that required that the PWGSC 2000 action plan include a provision to re-tender the communication agency contracts. PWGSC was also to provide additional oversight of the renewal process to ensure arrangements met with all policy requirements and established administrative practices in PWGSC.

As for making price compulsory, consideration of how a party will be paid in exchange for work to be performed or goods to be delivered, is an essential element of contracting under contract law whether in a competitive or non-competitive contract situation. Requirements associated with pricing in the market place and under various contracting circumstances, are provided for in the policy.

- c) **Mr. Neville’s letter refers to “a few meetings” between TBS officials on the matter of whether CCSB’s management of advertising and sponsorship activities was compliant with the Contracting Policy. What was the outcome of these meetings, and were records, notes, or any other documents kept? Was any representation made to Pierre Tremblay regarding whether CCSB procurement activities were compliant?**

On August 28, 2000 a meeting was held at the request of Mr. Tremblay concerning the application of TB policies in the context of the sponsorship activities managed by CCSB. Mr. Tremblay and officials from CCSB outlined in general how they undertook their procurement activity for sponsorships. No assurances were provided by TBS that the instruments were compliant. The level of generality of the discussions at the meeting did not provide a basis for a conclusion that CCSB contracting procedures were or were not consistent with good management practices.

Subsequent meetings between CCSB and TBS officials resulted in the general guidance in terms of policy and practices provided in Mr. Neville’s September 14, 2000 letter to Mr. Tremblay, not an affirmation on the part of TBS that the CCSB contracting processes were fine. The letter also identified TBS’s commitment to work with CCSB in developing an appropriate management

action plan. Further meetings were held between TBS and CCSB in developing the PWGSC management action plan to address recommendations in the PWGSC 2000 internal audit report on sponsorship activities.

These documents are available to Commission Counsel as part of the scanned documents available through the documentation centre. A hard copy of the documents related to the work launched further to the August 2000 meeting was provided to Commission Counsel under cover of a letter to André Lespérance, Justice dated September 9, 2004.

**4. At what point was TB/TBS made aware of (1) the results of the Cutler Investigation; (2) the Ernst & Young audit; (3) the APORS Management Action Plan that followed the E&Y audit?**

(1) TBS was unaware of the internal review undertaken by the Audit and Ethics Branch at PWGSC as a result of concerns raised by Mr. Allan Cutler at that time. The TBS has confirmed with Mr. Norman Steinberg, Director of the Audit and Ethics Branch at PWGSC that he did not forward any information to TBS on this matter.

(2 & 3) On September 30, 1997, TBS officials received an executive summary of the Ernst & Young (E&Y) audit and PWGSC's management action plan, along with several other documents from PWGSC. While the documents were received in the Secretariat, they were not immediately posted on the TBS website due to an incompatible electronic format; nevertheless, the executive summary of the audit and the management action plan were posted by November 28, 1997. There is no indication that the information that was received was circulated within TBS, including to program sector analysts. Since that time TBS has established an active notification process to ensure that program sectors and policy centres are aware of and review audits and evaluations upon their receipt by the Secretariat. In 2002, when working with PWGSC on the action plan announced by Minister Boudria, TBS officials were provided with a copy of the audit.

**5. TB Précis, TB No. 824628, dated November 21, 1996; TB submission and memorandum indicating TB approval - Given the substantial procurement and contracting problems that were identified in the E&Y audit, why would the first allocation of \$34 million from the Unity Fund to APORS have been recommended for approval by TBS?**

The report was not available to the TBS at the time this submission was prepared and subsequently presented to the Treasury Board.

**6. TB Précis, TB No. 824628, dated November 21, 1996 - Paragraph 5 of the "background" page on that TB Précis states that "In carrying out its contracting function, A&PORS ensures that the creative services, media buys, sponsorships, promotions and any other marketing initiatives conform**

**with established TB policies and guidelines, and that communications services including A&POR, are competitive. How was TBS able to state this given the Cutler investigation and the E&Y audit?**

As previously stated in the response to question #4, the TBS was not aware of the internal review conducted by PWGSC in 1996 in light of Mr. Cutler's concerns. Similarly, the results of the Ernst & Young audit were not available to the TBS at this time. By signing the submission, the Minister undertook that activities of APORS in carrying out its contracting function would conform to the TB policy and guidelines (at that time, *Appendix U – Supplemental Policy and Guidelines with Respect to Contracting Procedures for Communications, Public Opinion Research and Advertising Services* and the *Contracting Policy*).

7. **The Auditor General stated in her report that the granting of sponsorship funds to Crown corporations was contrary to the Treasury Board Policy on Transfer Payments. Does TBS agree with this interpretation of TB policy? Was the Auditor General wrong that money for Crown corporations – e.g., VIA rail – should have come from VIA's parliamentary appropriations?**

The Auditor General expressed the opinion that CCSB violated the intent of the *Policy on Transfer Payments* in the context of the sponsorship program. TBS does not agree with this interpretation; this was pointed out to Mr. Shahid Minto, Assistant Auditor General by Mr. Jim Judd, the Secretary of the Treasury Board, in his letter of October 29, 2003 that stood as his "formal sign-off of the chapters". In that letter, Mr. Judd makes reference to a common view not being reached with respect to the applicability of the *Policy on Transfer Payments* in the context of the sponsorship program as the program was being delivered through procurement contracts subject to the contracting framework, including the *Contracting Policy* and the *Government Contracts Regulations*.

A Parliamentary appropriation is not the only way that a Crown corporation may receive money from the Government. Government departments may arrange transactions whereby they pay money to a Crown corporation to obtain a good or service from it other than the goods or services it is in business to provide. We do not necessarily consider a Crown corporation that receives money pursuant to such an arrangement as attempting to circumvent its appropriation from Parliament.

8. **TB Précis, TB No. 824628, dated November 21, 1996**

**a) The November 21, 1996 TB Précis attaches a list of projects that had already received sponsorship funds from APORS. This list includes VIA rail "promotion étudiants". Did TBS question the propriety of this?**

There would have been nothing unusual about a Crown corporation being identified on the list in part because sponsorship initiatives were delivered

through transactions that are not precluded between departments and Crown corporations.

**b) Why did TBS recommend approval (and why did TB approve) a submission that included sponsorship for VIA, given that the Federal Identity Program already applied? What added value did TB/TBS think Canada would receive from such a sponsorship?**

VIA Rail was exempt from the *Federal Identity Program Policy* at that time. Annex B of the 1990 Policy (that was in effect at that time) clearly identifies those federal entities exempted from the Policy. The 1990 Policy also outlines the exemption criteria. Following a decision of TB Ministers in February 1998, the application of the *Federal Identity Program* was revised to include previously exempted federal entities. Following the 1998 decision, VIA Rail was to display the Canada wordmark prominently on all corporate applications, such as stationery, forms, motor vehicles, signage, advertising, published material, audio-visual productions, expositions and personnel identification.

9. **TB Précis, TB No. 825713, dated November 4, 1997 - Questions 5, 6 and 7 apply equally to a November 4, 1997 TB Précis recommending that the TB approve additional funding of \$18.8 million from the Unity Fund to APORS. The same statement is made regarding compliance with TB policies and guidelines, and the list of projects attached to this Précis includes “VIA – Cultural Exchanges” and “VIA Magazine”.**

When considering requests from departments for funding, it is the responsibility of the Treasury Board Secretariat to ensure that the funding requested is consistent with government priorities, that the proposed initiatives fall within the requesting department’s mandate, that all necessary Treasury Board approvals are being sought (i.e. those that may flow from Treasury Board policies) and that any other issues raised by the proposal that are relevant to the approval role being played by Treasury Board ministers are identified. The funding proposal in this submission was consistent with the priorities of the day, fell within the mandate of PWGSC, did not require any additional approvals and, at the time that the submission was being considered, would not have raised any issues that the program analyst would have been expected to identify for Ministers.

There would have been nothing unusual about a Crown corporation identified on the list in part because sponsorship initiatives were delivered through transactions that are not precluded between departments and Crown corporations.

10. **Memorandum re: the Unity Reserve, dated December 18, 1996 from J. Bourgon to the PM (tab 2 of second series of Unity Reserve documents relating to sponsorship & advertising) - Page 3 of this memorandum says that PWGSC accessed the Unity Reserve on the PM’s behalf. What does this mean? It also says that the accountability rests with the PM for how the**



**funds were spent, as the Unity Reserve was accessed on his behalf by PWGSC. Please explain. What is the PM accountable for and why? Why are the funds accessed “on his behalf”? Bullet 2 suggests that the allocation of \$17M for ear of 96-97 and 97-98 was treated “Like...any other advertising program”. Is this the case? Was sponsorship treated as a kind of advertising?**

PCO is responding to these questions.

- 11. Memorandum for the PM dated September 30, 1997 (Nov. 21 date stamp), Tab 2 of PCO documents binder entitled “Unity Reserve Documents Relating to the Sponsorship Program”, dated June 10, 2003 -**

**Did Chrétien initial this?**

PCO is responding to this question.

**Page 2 says that the PM will be expected to co-sign the submission. Why?**

PCO is responding to this question.

**On p. 2, it says there is no breakdown for the requested \$150M over 3 years. Where does TB also make this point?**

TBS did not receive a request from PWGSC for funding of \$150 M over 3 years. The TB submission requested \$18.8 M for one year only.

**Who is supposed to be accountable for the spending of monies from the Unity Reserve?**

PCO is responding to this question.

**What is TB/TBS’ understanding of the accountability questions?**

TBS’s understanding of the accountability question is that once funds have been allocated to a department, the Minister of that department is accountable for the spending of those funds.

- 12. September 19, 1997 memorandum from Ronald Bilodeau, at Tab 2 of PCO documents binder entitled “Unity Reserve Documents Relating to the Sponsorship Program”, dated June 10, 2003. See TB submission dated September 5, 1997 (not signed by the PM).**

**In this memorandum, Mr. Bilodeau says the PM must sign the TB submission. Our understanding was that PM approval was necessary for a draw on the Unity Reserve, but that this normally would happen in the form**

**of a letter/memorandum, and not by his signature on the TB submission. Please explain.**

TBS would take either the written confirmation by PCO, the submission signed by the Prime Minister, or both. The written confirmation by PCO would have been the more common means to verify to TBS the Prime Minister's policy and funding approval, but there was nothing problematic with getting the Prime Minister's signature on the submission instead of, or as well as confirmation from PCO.

**What discussions were held? Are there any notes of these discussions?**

TBS has been unable to confirm, through internal consultation with TBS employees who were involved in this area during that period, that discussions around this memorandum took place. However, the normal practice was for the Liaison Secretariat for Macro-economic Policy of PCO to alert TBS to an impending draw on the unity reserve.

13. **Memorandum date-stamped February 12, 1998, produced under Tab 3 of the PCO documents binder entitled "Unity Reserve Documents Relating to the Sponsorship Program", and dated June 10, 2004.**

**Please comment on a memorandum date-stamped February 12, 1998 from George Anderson to Ronald Bilodeau (both at Privy Council Office), in which Mr. Anderson refers to the intention of PWGSC to go directly to the PMO for Mr. Pelletier's signature on a letter to Treasury Board authorizing a draw on the Unity Fund (without involvement of the PCO).**

PCO is responding to this question.

**Who wrote the notes and what do they mean?**

PCO is responding to this question.

**Did TB/TBS ever receive such a letter? Was there any communication with TB/TBS?**

To the best of our knowledge, TBS never received this letter.

**What discussions were held and between whom?**

While we have no record of any discussion on this issue, the normal practice is for PCO to advise TBS orally at some point in the process of an impending draw on the unity reserve.

**Does this indicate that the PMO was initiating TB submissions? If so, why?**

PCO is responding to this question.

**Are the bullet points on p. 2 correct in their descriptions, observations and conclusions? What was done following this memorandum?**

The only bullet of direct relevance to TBS is the first one, which TBS confirms is correct. PCO is responding more fully to this question.

**Please provide any related information or documentation.**

Relevant TB documents have been provided to the Commission under cover of the letter from Mike Joyce, TBS, to André Lespérance, Justice, dated June 8, 2004.

14. **Are you aware of any other instance where there was actual or attempted communication between the PMO and the TB or TBS (for which the PCO did not act as intermediary) regarding funding from the Unity Fund?**

To the best of our knowledge, there was no actual or attempted communication between the PMO and TBS (for which PCO did not act as intermediary) regarding funding from the unity reserve.

15. **Memorandum dated February 12, 1998 produced under Tab 3 of the PCO documents binder entitled “Unity Reserve Documents Relating to the Sponsorship Program”, and dated June 10, 2004.**

**Provide all documents relating to the granting of \$35 million to APORS in 1998-1999. A memo from Ronald Bilodeau to George Anderson dated February 12, 1998, states that Mme Bourgon “agreed to have TBS print \$35M in main estimates 1998-1999 DPWGSC” and that “she will confirm with PM”.**

Relevant documents have been provided to the Commission under cover of the letter from Mike Joyce, TBS, to André Lespérance, Justice, dated June 8, 2004. The documents relating to the TB submission 825830 can be found under tab 3 of that binder.

**How could she agree to this without prior PM approval for a draw on the Unity Reserve?**

PCO is responding to this question.

**What is the “approval process” mentioned in this memo?**

PCO is responding to this question.

16. **TB Précis 827785, TB dated December 16, 1999. (The TB number is not visible on our copy). Under Tab 3 of white PCO binder entitled “Unity Reserve Documents Relating to the Sponsorship Program”.**

**a) In this TB Précis the source of funds is listed as “funds earmarked within the fiscal framework”. Is this the Unity Reserve? If so, why doesn’t the Précis indicate this (as in other years)?**

Other than for reserves that are specifically under the Treasury Board’s control (e.g. the Operating Reserve), preferred and standard practice is to use the term ‘funds earmarked within the fiscal framework’ when the source is funds that have been set aside for planning purposes pursuant to a Budget decision. Analysts have not always followed this convention with the result that there are inconsistencies among précis.

**b) Where is the list of projects, as was provided in other years 824628 & 825713? Why would the same submission (in the same wording) be approved year after year?**

It is not standard practice to attach an annex containing a list of planned projects to a Précis. This level of detail is required for a department to allocate funds internally, but it is not required by the Treasury Board to approve the inclusion of an item in the Supplementary Estimates. In the case of a submission that seeks the same authority as in previous years and that raises no new issues, there would be no reason for the submission wording to change.

**c) What was the rationale for approving this submission in particular?**

TBS’s recommendation for approval was based on its assessment that the funding proposal in this submission was consistent with the priorities of the day, fell within the mandate of PWGSC, did not require any additional approvals and, at the time that the submission was being considered, would not have raised any issues that the program analyst would have been expected to identify for ministers.

**d) On p. 2, sponsorships are included as “communication services” in the same category as advertising and POR. Please explain. These were supposed to be “competitive” and were to follow Appendix Q of the Contracting Policy. Further, this was signed by Chrétien and Gagliano. What was done to ensure that: (1) contracts had been awarded competitively, etc.? (2) contracts would be competitively awarded in the future?**

TBS accepted the assurance in the TB submission signed by the sponsoring Minister to ensure that: the creative services and/or media buys, sponsorships, promotions and any other marketing initiatives conform with TB policy and

guidelines and that they provide added value to the Crown; all communications services, including advertising and public opinion research are competitive as required; and subsequently appropriate contracts would be issued in the future.

- 17. Please provide all other documents relating to allocations of funds from the Unity Reserve or any other source to sponsorship and advertising activities in APORS and CCSB. In particular, does the chart of “Allocations for Sponsorship” provided by TBS include every allocation of funds to sponsorship regardless of the source of funds? Please take us through each allocation, indicating: where the money came from; an accounting of the source of funds; all relevant documents, including but not limited to TB submissions.**

Documents already provided to the Commission under cover of the letter from Mike Joyce, TBS, to André Lespérance, Justice, dated June 8, 2004 cover all incremental funding transactions approved by Treasury Board for sponsorship activities to APORS and CCSB from all sources, including the unity reserve – i.e., TB824628 - \$17M to support communications priorities – 21-09-96; TB825713 - \$18.8M to support communications priorities – 20-11-97; TB825830 – ARLU - \$35M for PWGSC – 11-12-97; TB826841 – ARLU - \$40M for PWGSC - 10-12-98 (note that the documents that have been provided do not explicitly identify the \$40M that was allocated to PWGSC); TB827730 - ARLU - \$40M for PWGSC - 09-12-99 (note that the documents that have been provided do not explicitly identify the \$40M that was allocated to PWGSC); TB827785 - \$9M for communications priorities – 16-12-99; TB828762 – ARLU - \$40 M in 2001-02 and future years for sponsorship related activities – 08-02-01; and TB829617 - \$3.5 M to Communication Canada in 2001-02 for sponsorship activities – 21-02-02.

In the context of the document transmitted on August 23, 2004 to André Lespérance, Justice, for the Commission of Inquiry, TBS identified an additional five submissions relevant to the Commission’s mandate: TB827020 - \$5M for PWGSC for advertising – 18-02-99; TB827943 to the Department of Finance to cover the cost of a print advertising campaign for the 2000 Budget on 24-02-00; TB828026 - \$57M over 3 years to CIO for purchased advertising in support of the Citizen Information Initiative on 30-03-00; TB828401 – in the 2000-01 S.E. \$400K was provided to PWGSC to cover advertising costs incurred with respect to the Clarity Bill on 09-01-01; TB828741 - \$2.1M to Health Canada to cover the costs of federal advertisements on health care in Ontario on 08-02-01 and TB829617 on 21-02-02.

**Many more sponsorship events or projects were funded than those listed in the TB submissions. Who approved these? Where did the money come from for these? E.g., VIA is listed in the Submissions, but Canada Post is not. Who approved the sponsorship to Canada Post?**

Spending on sponsorship or advertising activities may be made by many departments as part of delivering their programs. Neither Parliament nor the Treasury Board approves or controls spending at this level of detail. Departmental management regularly make allocation and re-allocation decisions, within their approved reference levels (their departmental budget), within votes (i.e. not requiring a transfer among votes), and within their delegated authorities and this could well have an impact on actual spending on activities such as advertising and sponsorship. Providing these decisions were also in compliance with TB policies, there would be no need for a department to seek approval from TB. In addition, there was no requirement that TBS would have been informed of such changes to planned spending in the areas of sponsorship and advertising in particular.

One sponsorship initiative involving Canada Post, appears on the list of projects, i.e. \$900K for “Philately Brochure – CPC” in the Précis TB825713. TB was not required to approve the specific transaction

**18. References to these meetings are contained in the PCO documents binder entitled “Unity Reserve Documents Relating to the Sponsorship Program”, and dated June 10, 2004 -- Information and any documents relating to meetings of the Treasury Board members on the following dates: November 21, 1996**

- **November 20, 1997**
- **December 11, 1997**
- **December 16, 1999**
- **Any other date on which the Treasury Board considered requests for advertising and sponsorship monies by APORS or CCSB**

**In particular, please advise as to: who attended these meetings; the nature and contents of the discussions, and provide related documents including but not limited to notes and minutes of those meetings.**

The documentation related to meetings of the TB consists of a schedule outlining participants; an agenda; the TB submission prepared by a department and signed by the responsible Minister; a Précis prepared by TBS that provides TBS advice and recommendations to TB; a memorandum from PCO to TBS confirming funding from the unity reserve, where applicable, and a decision letter, which constitutes a minute of the meeting relating to the decision on that particular submission. All documents related to meetings of TB on November 21, 1996, November 20, 1997, December 11, 1997, December 10, 1998, February 18, 1999, December 9, 1999, December 16, 1999, March 30, 2000, January 9, 2001 and February 8, 2001 as they relate to sponsorship and advertising funds for APORS or CCSB have been provided.

**19. October 23, 1996 Memorandum from Wayne Wouters to Jocelyne Bourgon (Second series of Unity Reserve documents relating to sponsorship and advertising – Part A) - Bullet 3 on p.3 – what does the reference to PWGSC**

**having “monies earmarked for such activities in their A-base” mean?**

The full text of the relevant part of the memorandum states “From an administrative point of view, this is not a problem because, according to Treasury Board officials, PWGSC had the authority to proceed as they had moneys earmarked for such activities in their A-base.” While we have no record of this advice, our interpretation is that we would have given PCO assurance that PWGSC could proceed with the expenditures at issue because it had adequate expenditure authority available within the appropriate parliamentary vote. The term A-base is used generally to refer to the approved and ongoing resources for a department’s existing operations.

**Questions added on August 13, 2004:**

- 20. We understand that PWGSC obtained certain funds for the sponsorship program through transfers from other departments. Is it permissible for PWGSC to obtain funds from other departments and then use those funds for PWGSC contracts – that is, not for services to be delivered to the department transferring the funds?**

If the donating department transfers funds to PWGSC by way of Parliamentary approval through the Main Estimates or Supplementary Estimates then responsibility for those funds shifts to PWGSC. In that case, it is permissible for PWGSC to use those funds to fulfill PWGSC’s mandate with PWGSC contracts. The donating department would not receive any services in this instance.

It is permissible for departments to transfer funds to other departments for services to be delivered provided that the transfers are consistent with relevant Treasury Board policies.

- 21. Please provide information and documentation relating to all allocations of funds from the Unity Reserve to PWGSC for advertising activities.**

Allocation of funds from the unity reserve to PWGSC for advertising is addressed in question 17.

- 22. Please provide information and documentation relating to the creation, evolution and elimination of Appendix Q. Also, please advise as to whether documents relating to the creation of Appendix Q (in 1994) have been produced to the Commission.**

The following documents, covering the creation of Appendix U in 1994 were provided to Commission Counsel in August as well as under cover of a letter to André Lespérance, Justice dated September 9, 2004 and are available through the documentation centre:

- 1.** Contract Policy Notice 1994-5 dated July 6, 1994: Contracting for Advertising and Public Opinion Research Services
- 2.** April 18, 1994 Question Period Card: “Contracting on Polling, Advertising and Communications, Issue – April 16, 1994 Globe & Mail Article on Guidelines on contracting in communications, public opinion research & advertising
- 3.** Feb. 1, 1994 Memorandum to the President from I.D. Clark, Guidelines on Contracting for Communications, Public Opinion Research and Advertising
- 4.** May 9, 1994 Letter from Prime Minister Jean Chrétien to the Honourable Arthur C. Eggleton providing direction regarding the new government policy on advertising, communications and public opinion research
- 5.** May 11, 1994 News Release from Honourable David C. Dingwall (the then Minister of PWGSC) on New Contracting Guidelines on Advertising and Public Opinion Research with attached proposed guidelines
- 6.** January 23, 1995 Memorandum to Robert Giroux from Allan Kaufman on the Status of Reviews Conducted by TBS (reference to advertising and polling on page 2)
- 7.** March 1, 1995 Memorandum to Robert Giroux from Allan Kaufman on the Request from the Prime Minister – Advertising and Polling
- 8.** April 26, 1995 Letter from Prime Minister Jean Chrétien to the Honourable Arthur C. Eggleton asking for an assessment of the government’s success in keeping the expenditure target with respect to advertising and public opinion research; another page listing “Action Underway” and “Action Already Taken” with respect to the PM’s request
- 9.** May 25, 1995 Letter to the then Prime Minister Jean Chrétien from the Honourable Arthur C. Eggleton responding to the April 26, 1995 request from the then Prime Minister outlining the requested report was being prepared
- 10.** July 17, 1995 Letter to the then Prime Minister Jean Chrétien from the Honourable Arthur C. Eggleton providing a copy of the Report on Government Contracting for Advertising and Public Opinion Research Services for the periods July – September 1994 and October – December 1994
- 11.** August 4, 1995 Letter from the then Prime Minister Jean Chrétien to the Honourable Arthur C. Eggleton thanking him for the report and requesting continued vigilance in awarding polling and advertising contracts
- 12.** Undated: Summary of a May 13<sup>th</sup> meeting with PWGSC (Chuck Guité) and PCO (Karen Laughlin) on New Guidelines for Contracting in Communications, Advertising and Public Opinion Research
- 13.** Sept. 5, 1995 E-mail from Richard Neville to W.E.R. Little on the Letter to the PM
- 14.** Nov. 3, 1995 E-mail from R.J. Kelly to Gene Donovan and Hélène J. Tremblay copying recipients on e-mail regarding a draft Aide-mémoire to report to the Treasury Board data for the last three quarters ending in March 1995
- 15.** Sept. 22, 1995 Memorandum from Richard Neville to W.E.R. Little on a Query from the President of Quebec Conseil du Patronat on the Policy on Advertising Contracts
- 16.** Jan. 10, 1996 Memorandum from W.E.R. Little to V. Peter Harder on Contracting for Advertising and Public Opinion Research Services.



Cabinet confidences on the creation of Appendix U and on reports between June 1994 and January 1996 have not yet been released to the Commission.

### **Questions Will-Say:**

**23. Provide a list of what falls within the program spending that the TBS manages (page 6)**

The column labelled 'Direct Program Spending' in the table provided to Commission Counsel in August as well as under cover of a letter to André Lespérance, Justice dated September 9, 2004 and available through the documentation centre identifies the program spending for which the Treasury Board has primary expenditure management oversight responsibility.

**24. Clarification on Interim Supply (page 10)**

See page 50, Annex E of the document prepared by TBS for the Commission of Inquiry into the Sponsorship Program and Advertising Activities (hereinafter referred to as "Evidence Document").

**25. Origin of Table Provided at May 19<sup>th</sup> Meeting (page 10)**

The table provided at the May meeting was prepared by TBS officials to inform Commission Counsel. A revised table, Table E-3 that includes all documents referred to in the answer to question 17, is available on pages 59-60 of Annex E of the Evidence Document.

**26. Re Submission 824628: how do the mechanics of determining the source of funds and getting PM policy approval work, given that the existence of the Unity Fund was secret? The dept. submits a TB submission. The TB then asks, 'do you have a source of funds?' But the dept isn't supposed to know *what* the source of funds is in this case, much less be in a position to get the policy approval from the PM.**

See Evidence Document, Part VI.

**Does the TB contact the PCO on behalf of the dept and ask whether this might be an appropriate project for the Unity Fund?**

Normal practice is for PCO to advise TBS of a draw on the unity reserve. In the absence of a decision on a source of funds, it is more likely that TBS would refer a department to contact the PCO; TBS would then alert PCO to the referral.

**Does Chrétien's signature on the TB submission indicate that Diane Marleau knew about the Unity Fund? (page 11)**

TBS is unable to answer this question.

- 27. Why is this procedure used, given that Parliamentary approval is required for the supplementary appropriation to vote 1(b) in any event? Presumably it is not to satisfy TB that there's room in the department's vote either, b/c according to the documents we have, the "source of funds" for this \$17 million in 1996-1997 was the Unity Reserve (not reallocation within PWGSC's vote.) (pages 12-13)**

The offset procedure is used to avoid seeking unnecessary parliamentary authority when existing authorities previously 'frozen' by TB can be released. The procedure is one that is employed by TBS as part of its role in preparing Supplementary Estimates, not by departments, as it requires a Treasury Board decision to release the frozen allotment. Even if an offset is available to reduce or eliminate the need for a Supplementary Estimate, there is still a requirement to identify and approve source funds for the increment that the Treasury Board has approved to the department's reference levels.

- 28. Clarification also required re: whether the \$17 million is included in one of the larger amounts in the Supplementary Estimates, and if so, which one? (page 13)**

See Evidence Document, Part VI.

- 29. Was there any reference to sponsorship activities in the Reports on Plans and Priorities and the Departmental Performance Report for PWGSC for 1997-1998? (page 13)**

The 1997-98 DPR has a line item under planned spending for «procurement of sponsorship for media events » in the amount of \$18.8M in Section III – Financial Performance, page 39.

- 30. Is there an ARLU submission from PWGSC to TB seeking \$35 million? Or, is the amount \$35 because this was roughly the amount appropriated in 1997-1998 (17 + 18.8 million)? If the latter, why wouldn't the \$35 million automatically be considered during the ARLU process? (page 14)**

See reference to TB 825830 on page 37 of Evidence Document.

- 31. The reference level for PWGSC includes \$35 million for sponsorship. However, the amount is invisible, as it is subsumed under the larger amount approved for "other operating costs" - TBS to confirm (pages 14-15)**

TBS confirms that that is included in "other operating costs".

**32. TBS to prepare additional packages of material detailing other allocations of funds to PWGSC for sponsorship (page 15)**

See the response to question 17.

**33. Clarification on non-mandatory procedural requirements: It is also a non-mandatory procedural “requirement” that: ... (page 23)**

See page 32 of Evidence Document.

**34. Main Contracting Policy – TBS to confirm if these provisions (or their substantive equivalents) were in effect throughout the period in question (page 29)**

See Annex H - 4 of Evidence Document.

**35. Soliciting Bids and Selecting a Contractor: There are very detailed provisions setting out the appropriate procedures. - TBS to provide further information/explanation of the technical requirements. E.g., when is it permissible to use “source lists”, “pre-selected bidders”, “two-step proposals”, etc.**

“Source lists and pre-selected bidders are tools to assist and support individuals responsible for procurement in preparation for a tendering process. Two-step proposals are used when the initial selection process (pre-qualification) needs to be based largely on the technical and managerial qualifications of suppliers because of the nature and repetitiveness of the requirement, consistent with the situations mentioned above.”

The decision to use supplier lists or various types of proposal processes is based on consideration of efficiency and cost-effectiveness in order to get the best supplier possible and to ensure program results are met.

The *Contracting Policy* provides guidance to assist in making decisions to use source lists, pre-selected bidder or types of tendering processes such as a two-step proposal.

**What is the status (competitive/non-competitive) of each of these?**

Source lists can be used when the individual responsible for procurement concludes that it is useful to establish a list of suppliers to assist in future tendering processes. This tool was used most commonly before the advent of the Government Electronic Tendering System.

Pre-selected bidders can be used in situations where, for example:

- services are not generally available in the marketplace;
- there are savings to government and suppliers by qualifying bidders for repeat requirements.

Two-step proposals are used when the initial selection process (pre-qualification) needs to be based largely on the technical and managerial qualifications of suppliers because of the nature and repetitiveness of the requirement, consistent with the situations mentioned at 35 (b). The final selection is then made on the basis of price and additional evaluation criteria specific to the service to be delivered.

When soliciting bids, the policy requires, for example, that:

- the start and close times are the same for all bidders;
  - suppliers are provided with the same information;
  - identical obligations are imposed on all suppliers;
  - the tendering document clearly describes the work to be carried out;
  - the fees paid do not exceed the appropriate market rate for the service provided;
- and
- bid evaluation and selection methodology be pre-established, available to all bidders and used in the evaluation process and result in a proposal that represents a valid bid, which would include a consideration of price.

Appendix U/Q further required, for example:

- Publication of a Notice of Planned/Proposed Procurement using electronic bidding and in the Government Business Opportunity for 30 days during the competition process
- If a pre-qualified suppliers' list was used, all qualified suppliers on the list would be invited to submit a proposal
- If a pre-qualified suppliers' list was used, the community of interest would be notified of the existence of the list annually using electronic bidding and the Government Business Opportunity for a period of 15 days and providing the criteria to qualify for inclusion
- Publication of a Contract Award Notice no later than 72 days after the contract has been awarded
- Identification in the solicitation that only Canadian owned and controlled companies would be considered for advertising contracts and a market dominance provision would be used.

Contractors are selected using a process where each proposal is considered based on merit in accordance with the bid evaluation and selection methodology provided in the solicitation.

Appendix U/Q further provided specific evaluation criteria for advertising

services, such as professional qualifications, track record, understanding the program and media planning requirements, availability of senior personnel, talent, internal performance measurement.

Appendix U/Q also required that action be taken to ensure that any one contractor not be awarded more than 25% of the approved total value for all contracts in a fiscal year.

Source lists and pre-selected bidders are non-competitive.

Two-step proposals, including price competition, are a competitive.

**Are all the relevant bidding rules contained in Appendix Q, as opposed to the Main Contracting Policy?**

Not all the relevant bidding rules are contained in Appendix Q, nor are they all contained in the “main” *Contracting Policy*. Appendix Q is only one part of a legislative and policy framework relative to procurement that includes the Government Contracts Regulations, the Contracting Policy and its appendices and applicable laws and judicial precedents. Appendix Q represents only one part of the relevant bidding rules. Appendix Q provides additional policy requirements for contracting of advertising and public opinion research services. The *Contracting Policy* and its appendices contain most relevant bidding rules. However, as stated in this policy, applicable laws and judicial precedents must also be taken into account.

**How was the list of CA’s used by Guité characterised (a) at the time; (b) in hindsight? (page 32)**

At the time, PWGSC characterized the communication agency procurement process as competitive.

The Secretariat concurs with the findings of the PWGSC 2000 internal audit that contracts were not awarded through a competitive process.

**36. Appendix A – Definitions. Published December 12, 2000 - TBS to inform whether any comparable definitions existing prior to 2000 (page 35)**

See Evidence Document Annex H-4 – page 109.

- 37. Appendix C – Treasury Board Contracts Directive, June 26, 1987, as amended. Last revised June 9, 2003  
Introduced June 26, 1987 - TBS to supply any relevant amendments and dates thereof (page 36)**

See Evidence Document Annex H-4 – pages 109-110.

- 38. Appendix K - Annual reporting requirements for contracting authorities, June 29, 1990 - TBS to supply any relevant amendments and dates (page 37)**

See Evidence Document Annex H-4, page 110 and Annex H-4b, page 115.

- 39. TBS to indicate whether they consider this definition to encompass the sponsorship activities that are at issue and whether, if not, appendix U/Q applied to sponsorship activities by virtue of the reference to “communication activities”. (see definition on page 38)**

With the benefit of subsequent work by the Secretariat on behalf of the President of the Treasury Board, the Secretariat concluded that sponsorship activities would have been better managed through a contribution program under the *Policy on Transfer Payments*, rather than under the *Contracting Policy* and Appendix U/Q. The stated policy standards that the program and audit officials at PWGSC were using included the *Contracting Policy* and Appendix U/Q.

The detailed provisions in Appendix U/Q refer to advertising and/or public opinion research, not to all communications services generally. Contracts for communications services are subject to the *Contracting Policy*, not Appendix U/Q, unless they form part of advertising services as defined in that appendix.

This is clarified in section 4 of Appendix U (section 1.2 of Appendix Q):  
“Departments and agencies will adhere to the principles and procedures of the *Contracting policy* when proposing to contracting for communications services.”

- 40. TB submission regarding the proposed cancellation of the quarterly reporting requirement, which would have been signed by the minister of PWGSC at the time - TBS to indicate whether Dingwall or Marleau. (page 41)**

This was a Treasury Board Secretariat submission; the President at that time was Marcel Massé.

- 41. September 8, 1997 – Appendix U became Appendix Q, and the policy was posted on the internet. - TBS to confirm no relevant amendments at this time (page 41)**

See Evidence Document – Annex H-4, pages 110-112.

**Vote 10 in the [TB to indicate year] supply bills appropriated bridge funds to departments on a one-time basis, so that they could implement this policy. It was granted to departments pursuant to memoranda of understanding (MOU) in which DMs set out what their department intended to achieve with the money. (page 43)**

Vote 10 was used to appropriate bridge funds to departments on a one-time basis for the four years 2001-2002 to 2004-2005, so that they could implement this policy. Funds were granted to departments for 2003-2004 and 2004-2005 pursuant to memoranda of understanding (MOU) in which deputy heads set out what their department or agency intended to achieve with the money.