

# **COMPLIANCE AUDIT REPORT**

Presented to:

*The Management of the  
The Canadian Artists and Producers Professional Relations Tribunal*

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## Table of Contents

1	EXECUTIVE SUMMARY .....	3
2	INTRODUCTION .....	4
3	BACKGROUND .....	4
4	AUDIT OBJECTIVE AND SCOPE.....	5
5	APPROACH AND METHODOLOGY .....	5
6	APPRECIATION.....	6
7	DETAILED FINDINGS AND RECOMMENDATIONS.....	6
7.1	Commitment control .....	6
7.2	Delegation of Authority .....	7
7.3	Account Verification.....	8
7.4	Acquisition Card .....	10
7.5	Hospitality.....	11
7.6	Travel .....	11
7.7	Contracting.....	12

# 1 EXECUTIVE SUMMARY

The Canadian Artists and Producers Professional Relations Tribunal (the “Tribunal”) is a federal agency that administers Part II of the *Status of the Artist Act* which governs professional relations (labour relations) between self-employed artists and federally regulated producers. The Tribunal was created in 1993.

The audit examined whether the Tribunal was in compliance with key policies and directives issued by Treasury Board concerning financial and contracting matters. The Auditors initiated their work by understanding the organizational structure of the Tribunal, the roles and responsibilities of managers and financial officers. They examined whether the Tribunal had established its own policy and familiarized themselves with the financial management framework in place. Once familiar with the framework, they examined a sample of transactions selected from fiscal years 2003-04 and 2004-05 up to and including October 31, 2004. They tested transactions to assess whether the controls described as part of the financial management framework were working as intended.

The auditors would like to thank the various individuals and organizations that have participated in this audit for their co-operation and assistance.

The auditors identified some findings that affect the control environment within the Tribunal and that prevents the Tribunal from complying fully with Treasury Board Secretariat (“TBS”) financial and contracting policies. The audit reported on the opportunity for the Tribunal to improve its procedures for committing planned expenditures, by committing in CDFS a transaction immediately upon initiating the expenditure. Auditors have recommended that the Delegation of Financial Signing Authorities be revised to reflect certain limits that the Tribunal has expressed in internal policies and procedures so that there is no contradiction between documents. The same instrument should be clarified as to the authority to approve hospitality when the cost of an event exceeds \$5000 as per TBS policy.

The Tribunal needs to instill an account verification process that will provide assurance to the Chairperson that all TBS policies have been complied with. Therefore the auditors have recommended strengthening the account verification process as part of the manager’s responsibility to approve that goods or services were received. Auditors have also made recommendation on strengthening the verification process associated with the exercise of payment authority.

Finally, Auditors have recommended that practices surrounding contracting be looked at in an effort to increase competition and transparency.

## 2 INTRODUCTION

The Canadian Artists and Producers Professional Relations Tribunal is a federal agency that administers Part II of the *Status of the Artist Act* which governs professional relations (labour relations) between self-employed artists and federally regulated producers. The Tribunal was created in 1993 under the *Status of the Artist Act* and began functioning when the substantive provisions of the Act were brought into force in May 1995.

The Tribunal is a quasi-judicial, independent federal tribunal that covers broadcasting undertakings regulated by the Canadian Radio-television and Telecommunications Commission, federal government departments and the majority of federal government agencies and Crown corporations (such as the National Film Board and national museums). The Tribunal has the following statutory mandate:

- To define, within its jurisdiction, sectors of cultural activity suitable for collective bargaining between artists' associations and producers;
- To certify artists' associations to represent self-employed artists working in these sectors; and
- To hear and decide complaints of unfair practices filed by artists, artists' associations or producers and to prescribe appropriate remedies for contraventions of Part II of the *Act*.

At present, the Tribunal is composed of a Chairperson, a Vice-chairperson and three members. The Chairperson, Vice-chairperson and all members are Governor-in-Council appointees and all are part-time members.

The Chairperson is the chief executive officer of the Tribunal and is responsible for management of the staff and supervision of the work of the Tribunal, including the allocation of work among its members and the assignment of members to preside at hearings. The Executive Director and General Counsel of the Tribunal has been delegated financial signing authorities to carry out the day-to-day activities of the Tribunal.

## 3 BACKGROUND

The Tribunal is an organization of 10 FTEs with total Voted Appropriations of approximately \$1.846 million in 2004-05. It operates as a single business line, with the Executive Director and General Counsel as the manager responsible for the day-to-day operations of the Tribunal. Delegations of authorities have been given to the Director Legal and Corporate Services (this position is vacant) and the Director Planning, Research and Communications. The Chief of Administrative Services and the Administrative and Financial Officer have also been delegated with the authority to initiate expenditure while the Financial Services Officer exercises payment authority for the Tribunal.

## 4 AUDIT OBJECTIVE AND SCOPE

The objectives of this audit are to provide assurance that key financial and contracting activities are conducted in compliance with TBS financial and contracting policies and to make recommendations to improve control activities when compliance is not assured.

The scope of the audit includes all financial and contracting activities of the Tribunal excluding salaries. The auditors reviewed financial related information and documentation for the period of April 1, 2003 to October 31, 2004. The audit was conducted primarily within the Financial Services Unit of the Tribunal but involved interviews with the Executive Director, the Financial Services Officer and the Chief of Administrative Services.

## 5 APPROACH AND METHODOLOGY

The auditors used the following approach and methodology in carrying out the audit:

- *Review of all relevant documentation on financial management within the Canadian Artists and Producers Professional Relations Tribunal.* The auditors reviewed relevant documentation in order to gain a sound understanding of the Tribunal's policies, procedures and reporting mechanisms as they related to financial and contracting practices.
- *Interviewed the Executive Director, the Financial Services Officer, the Chief of Administrative Services and the Administrative and Financial Officer who have responsibilities for the processing of financial and/or contractual transactions.* The interviews allowed the auditors to gain an understanding of the current financial management framework and the practices to process these transactions.
- *Establish audit criteria to undertake the audit.* Specific audit criteria were developed to assess the appropriateness of the financial management framework (control mechanisms and processes) and whether the key elements of a sound financial management framework are in place. The criteria are presented with each finding described in section 7.
- *Conduct a review of financial and contractual transactions.* The auditors reviewed a sample of financial and contractual transactions to appreciate whether the key controls expressed in TBS or Tribunal policies were working as intended.
- *Validate results from sample review.* The auditors developed a document entitled "Observation Sheets" which was given to the Executive Director and General Counsel for review and comment. The auditors then met with her to review the document and seek the Tribunal's responses.

## 6 APPRECIATION

The auditors would like to thank the various individuals and organizations that have participated in this audit for their co-operation and assistance.

## 7 DETAILED FINDINGS AND RECOMMENDATIONS

### 7.1 Commitment control

*The Tribunal has the system functionalities for controlling commitments but it is not systematically inputting commitments for planned expenditures. As a result, the Tribunal is exposed to a risk of exceeding its annual appropriation.*

The auditors assessed whether the Tribunal had implemented system functionality and developed procedures so that it could only enter into contracts or other arrangements for which sufficient unencumbered balances were available in the relevant appropriation to discharge such debts incurred under such commitments.

The financial system in place offers commitment control functionalities and these functionalities are working as intended. The auditors noted that funds are not always committed as part of the procedures to initiate expenditure, but rather as part of the payment process. This was the case for eight transactions out of 34 transactions examined.

Per TBS policies, the Tribunal must ensure that sufficient balances are available in its appropriation to discharge any debts incurred under any contractual or other arrangement. When not committing planned expenditures at the time of initiating expenditure, the Tribunal does not have a complete picture of its planned expenditure. The Executive Director indicated that it is very unlikely that Tribunal would exceed its appropriation given it usually lapses funds at the end of the year.

#### **Recommendation:**

**The Tribunal should commit all planned expenditures in CDFS.**

#### *Management Response:*

*Agree – It should be noted that there are CDFS system controls that prevent appropriations from being exceeded. Appropriations are entered in the financial control table and they cannot be exceeded. Therefore, we cannot pay in excess of our appropriation. The Tribunal will, in the upcoming fiscal year, input commitments before expenditures are initiated.*

## 7.2 Delegation of Authority

*The Tribunal operates with a delegation of authority instrument approved by the previous Minister of Labour. The Chart includes the delegation of payment authority to non-financial officers. Such delegation is not in line with the requirement of the TBS policy on Delegation of Authorities and should only be used on an exceptional basis.*

The auditors were assessing whether the Minister of Labour had delegated financial and operational authority to officers of the Tribunal and whether the Tribunal was administering this delegation in accordance with the obligations set forth in the delegation instrument and in line with the TBS Delegation of Authority policy.

The auditors noticed that the former Minister of Labour had formally delegated and communicated the financial authorities in writing. However a new Delegation of Authority has not yet been requested from the newly appointed Minister.

The current Financial Signing Authorities Chart delegates **payment authority** to the Chairperson and the Executive Director and General Counsel when the TBS policy requires that the Tribunal must delegate such authority to positions classified as “financial officers” who can independently verify how other officers exercise spending authority. This situation is acceptable given the small number of resources within the Tribunal. However, the exercise of this authority should be limited to exceptional situations where the Financial Services Officer is absent and when the Chairperson or the Executive Director have not initiated or approved the receipt of goods and services under Section 34 of the *Financial Administration Act* (“FAA”). We also noticed that certain limitations in authority have been included in internal policies and are not reflected in the Financial Signing Authorities Chart. We would encourage the Tribunal to include those limitations in the Financial Signing Authorities Chart.

The Delegation of Authority Chart provides full authority to the Chairperson, Executive Director and to other managerial positions within the Tribunal to initiate hospitality expenditure. This full authority is subject to limitations imposed by TBS policy on hospitality. One such limitation exists with respect to the approval of hospitality which requires ministerial approval for any single event estimated to cost more than \$5000.

### **Recommendations:**

**The Tribunal should review and update its delegated authorities to reflect specific limits to certain positions while also addressing the hospitality limitation.**

**The Tribunal should also seek the Minister’s signature for a new Financial Signing Authorities Chart.**

*Management Response:*

*Agree - The Tribunal noted that the exercise of payment authority is almost exclusively exercised by the Financial Services Officer. The Tribunal will update the Delegation of Authorities Chart to reflect the \$5000 limit and other internal policies regarding expenditures and obtain the new minister's signature.*

### **7.3 Account Verification**

***The Tribunal has not put in place a verification process that ensures, based on risk considerations, that work has been performed in accordance with a contract or agreement terms and conditions and that relevant policies have been complied with. Such a process must take place prior to the delegated officer exercising contract performance authority (section 34 of FAA).***

The auditors were assessing whether the Tribunal was paying on time, neither early nor late, amounts that represent a legitimate obligation and are correct. Auditors expected to see that the Tribunal had put in place an account verification process designed and operated in a way that maintain probity while taking into consideration the varying degrees of risk associated with each payment.

The Tribunal has not documented the verification process required prior to recording a transaction into the financial system and prior to the delegated officer exercising contract performance authority. As a result certain verifications normally expected to take place have not materialized. In general, auditors could not always attest that the supporting documentation for the payment existed. Sample testing revealed ten (10) incomplete accounts verification out of 34 transactions examined.

In six instances, the auditor noted that interest was paid because the payment was late. In three of these instances, there are indications in the file that the payment was processed on time. The Executive Director indicated that the system, CDFS, was incorrectly calculating interests and that recovery actions have been initiated in two cases where interests were paid. In three instances, the auditor did not see that a manager had approved the invoice for services and/or goods received under section 34 of the FAA prior to payment being authorized. The Executive Director explained that in two of the three situations the manager signed in the wrong section but wanted to approve that goods or services had been received.

In one instance, the Financial Officer approved payment for a transaction for which he was personally benefiting.

#### **Recommendation:**

**The Tribunal should document its account verification process and use a checklist to attest that a verification process has taken place prior to the Executive Director exercising contract performance.**



**Auditors encourage the Tribunal to report to PWGSC the system glitch which has caused the erroneous calculation of interest so that other departments using CDFS can be advised and that the issue be corrected.**

*Management Response:*

*Agree – A contracting policy and procedures have already been put into place and responsibility centre managers and the Chief, Administrative Services will ensure that proper documentation is included.*

***The Tribunal has recently hired a Financial Officer that will perform payment authority as required per Section 33 of the FAA. The Financial Officer will have to strengthen the account verification process in place.***

Responsibility for the system of account verification and related financial controls rests ultimately with those officers who are delegated payment authority pursuant to section 33 of the FAA. These officers provide assurance of the adequacy of the section 34 account verification and are in a position to state that an adequate process is in place and that it is properly and conscientiously complied with. The Auditors examined whether the performance of payment authority was adequately performed at the Tribunal.

Up until recently, the Tribunal was purchasing its financial services and a contractor was authorized to approve payment under section 33 of the FAA. In the fall of 2004, two tribunals decided to hire one Financial Officer to provide such function on a part-time basis in both tribunals.

Payment authority is a key financial control in the processing of payments in the federal government. As such, the officer exercising payment authority must be able to provide assurance that managers have exercised their account verification process in accordance with section 34 of the FAA and in accordance with the TBS Policy on Account Verification.

We understand that the Financial Officer exercises payment authority by completing the following steps:

- Examining payment for Section 34 approval;
- Verifying whether vendor and address are correct;
- Verifying whether GST # of applicable vendor is correct; and
- Verifying whether amount and coding are correct.

**Recommendation:**

**The Financial Services Officer should document the verification process that he has developed to ensure that he can rely on the account verification process taking place by the manager exercising contract performance.**

*Management Response:*

Agree - The Tribunal is currently developing plans to address this issue.

## **7.4 Acquisition Card**

*The Tribunal has put in place a modest acquisition card program. The Financial Officer is coordinating the acquisition card program.*

Auditors assessed the Tribunal's use of the acquisition card for the procurement and payment of goods and services where it is efficient, economical and operationally feasible to do so. Auditors expected to see that a coordinator manages the acquisition card program within the Tribunal. They also expected to observe that the coordinator ensures reliable controls exist over the use of the acquisition cards and that the Tribunal acquisition card program is well managed.

There are two cardholders who use the MasterCard. Each has a monthly limit of \$15,000. There is also one ARI Card for the purchase of gasoline and for repairs of the Tribunal's vehicle and the Chief of Administrative Services is the cardholder.

The statements from the Bank of Montreal and from ARI Canada are reviewed and matched to Purchase Orders and invoices by the Cardholder himself and approved under section 34 of the FAA when a cardholder should not be approving his own statement. The Executive Director should be approving the cardholder statements.

There is one corporate AMEX card used for the procurement of airline tickets. There is indication on file that each expense has been verified, however there are no supporting documents on file to attest that business travel did occur. To ensure that the travel has occurred and for a better control of the expenditures, travelers' itineraries or electronic tickets should be attached to the invoice.

Five AMEX cards were given to staff traveling on a regular basis. These cards facilitate the management of business travel within the Tribunal.

So far, the Financial Officer has not put into place a monitoring approach for the Acquisition Card Program. We would encourage him to put such program in place.

### **Recommendations:**

**A cardholder should not be authorized to approve his/her statement. Rather the Executive Director should be approving such statements of expenses.**

**The coordinator of the Acquisition Card Program should implement a monitoring approach convenient to the size of the program where certain transactions would be verified for their appropriateness to the TBS Guide on Acquisition Card.**

*Management Response:*

*Agree – Approval of credit card accounts will be done by someone other than the Acquisition Cardholder. The Tribunal will include itineraries/copies of electronic tickets to AMEX accounts to support the invoice.*

## **7.5 Hospitality**

***The Tribunal extends only few hospitality events and therefore has not put in place an extensive program to manage such events.***

Auditors were assessing whether the Tribunal had developed practices to extend hospitality in an economical, consistent and appropriate way to facilitate the Tribunal business or when considered desirable as a matter of courtesy. Auditors expected to see that when hospitality was extended, that it was done in accordance with TBS Policy and that it complied with the average and maximum per person cost limits. Auditors also assessed whether the Tribunal was abiding by the Government proactive disclosure directives.

The Tribunal has reported few hospitality events and when it does, such hospitality events are done in accordance with TBS policy on hospitality.

## **7.6 Travel**

***The Tribunal has put in place the necessary controls to ensure that business travel is authorized and records maintained. Travel claims are reviewed and approved in accordance with the TBS Travel Directives and Special Travel Authorities.***

***The Tribunal shares TBS principles of trust, fairness, transparency and modern travel practices across the organization. It has developed a Financial and Administrative Policies document where travel for members is addressed.***

Auditors were assessing whether the Tribunal shared TBS principles for the management of business travel and ensured that these principles were guiding all employees and managers in achieving fair, reasonable and modern travel practices across the organization.

Staff travel is generally pre-authorized by the Executive Director. For members, the Chairperson pre-authorized business travel. Travel claims are used to report travel costs and are properly reviewed by the Executive Director or the Chairperson prior to being authorized for payment.

The Chairperson's travel claims are signed using his stamp rather than him signing his own travel. This situation exists because the Chairperson lives outside the National Capital Region and he is a part-time appointee. However, a well-documented procedure is in place to restrict the use of the stamp. The Chairperson must authorize by e-mail the use of the stamp. Therefore a correspondence accompanied each situation where the stamp was used.

The Tribunal has set out its own travel directives. The auditors noticed that these directives provide the necessary guidelines to members who are traveling. The auditors noticed that some of these directives are no longer in line with the current TBS travel directives. For instance the TBS Travel Directives allows first class traveling by rail at all times. The incidental expenses have been raised to include long-distance calls when traveling within Canada. We would encourage the Tribunal to align its policies along the TBS Travel Directives.

**Recommendation:**

**The Tribunal should review its Travel Directives based on the new TBS Travel Directives issued in October 2002.**

*Management Response:*

*Agree - The Tribunal's Travel Directives will reflect new TBS directives. The new directives have been applied since their inception.*

## **7.7 Contracting**

***The Tribunal acquires specialized services from time to time to achieve its mandate. Contracting is most of the time done without a competitive process thus exposing the Tribunal to criticism of unfairness in the selection of contractors and may not result in best value to the Crown and the Canadian people.***

Auditors were assessing whether the Tribunal contracting is conducted in a manner that stands the test of public scrutiny in matters of prudence and probity, facilitates access, encourages competition, reflects fairness in the spending of public funds and ensures the pre-eminence of operational requirements. Auditors also examined if adequate file documentation<sup>1</sup> was maintained by the Tribunal.

The auditors examined twelve contracts for the procurement of goods or services. These contracts were awarded to different organizations or individuals, yet in four instances there was no justification on file for their selection or for sole source contracting. However, these contracts were under \$25,000 and did not require competitive bids. Generally, the file documentation relating to contracting file was poor.

It was also noted that some contracts did not include a total cost for the project but rather the number of days and the per diem. Both should be included in a contract to limit the financial obligation of the Tribunal.

This approach to procuring goods and services does not ensure access nor encourage competition and best prices. It also exposes the Tribunal to criticism of unfairness in its selection process.

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<sup>1</sup> File documentation refers to the official records that comprise a contracting file including: detailed information on the selection process, copies of the contract and invoices, progress and final reports and other deliverables.

We would encourage the Tribunal to qualify firms or individuals using a small competitive process. These firms and individuals would then from time to time render services to the Tribunal. We would also encourage the Tribunal to advertise proposed awards (for bigger projects) on the electronic bidding system of the Government through an Advance Contract Award Notice (“ACAN”). When using ACAN and if no statements of capabilities meeting the requirements are received with fifteen days, the proposed contract is considered to be competitive. This approach would assist the Tribunal to mitigate risks relating to contracts. We have indeed noticed that one contract was awarded using an ACAN.

**Recommendations:**

**The Tribunal should document and provide justification when awarding a contract on a sole source basis.**

*Management Response:*

*The Tribunal does compete all procurements over \$25,000, using the ACAN where appropriate, and for those procurements under \$25,000, where it is cost effective to do so.*

*Agree – A contracting policy and procedures have been put into place and responsibility centre managers and the Chief, Administrative Services will ensure that proper document is included.*