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Audit of the NAFTA Secretariat – Canadian Section

A report by the Public Service
Commission of Canada

October 2007



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*All of the audit work in this report was conducted
in accordance with the legislative mandate and audit policies
of the Public Service Commission of Canada.*

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Summary

1. Our audit determined that the North American Free Trade Agreement (NAFTA) Secretariat – Canadian Section, has improved its staffing activities since 2005 by putting in place an infrastructure that supports responsible management of staffing activities. The Secretariat’s ongoing efforts have enabled it to meet the requirements of the Public Service Commission (PSC) under the current *Public Service Employment Act* (PSEA).
2. We found that the Secretariat’s management took the necessary steps to establish an appropriate framework, systems, and practices for managing its staffing activities. We also found that the staffing transactions conducted by the Secretariat under the current PSEA were compliant with authorities and respected the appointment values.
3. In December 2005, the PSC signed an Appointment Delegation and Accountability Instrument imposing conditions of delegation on the Secretariat. The PSC had decided to retain appointment authorities for the existing executive (EX) position. The purpose of this audit was to determine whether, since 2005, the Secretariat had implemented an appropriate management framework, as well as systems and practices, in the area of staffing.
4. In view of our audit findings, the PSC has removed the delegation conditions it imposed in 2005 and has established a standard Appointment Delegation and Accountability Instrument with the Deputy Head of the Secretariat.

Introduction

Background

5. The NAFTA Secretariat was established pursuant to the North American Free Trade Agreement signed in 1992. The Secretariat is responsible for administering the dispute settlement provisions of that Agreement. It comprises a Canadian section, a Mexican section and a United States section, each headed by a secretary.
6. The NAFTA Secretariat – Canadian Section, was created in January 1994 under the *North American Free Trade Agreement Implementation Act*. It exercises its very specialized mandate in an international sphere and reports to the Parliament of Canada through the Minister of International Trade. The current Deputy Head of the Secretariat was appointed in October 1999. The Secretariat's executive committee is made up of the secretary, the deputy secretary and the deputy registrar.
7. The NAFTA Secretariat's success and international credibility largely depend on the expertise, professionalism and competency of its workforce. As of September 30, 2006, the Secretariat had eight employees appointed under the *Public Service Employment Act* (PSEA).
8. In December 2005, the Public Service Commission (PSC) placed conditions on the Appointment Delegation and Accountability Instrument (ADAI) that it signed with the Secretariat's Deputy Head. As a result of its oversight activities, the PSC had decided to retain appointment authorities for the existing executive (EX) position. In addition, the ADAI required the Secretariat to undergo monthly monitoring by the PSC to assess progress made in the area of staffing.

Objectives and scope of the audit

9. The audit objectives were to determine whether the NAFTA Secretariat – Canadian Section, had implemented, since 2005, an appropriate framework, systems, and practices for managing its staffing activities, and whether these activities complied with the PSEA, relevant policies, and the delegation instrument signed with the PSC.
10. We reviewed and analysed documents relating to the Secretariat's staffing framework, activities and transactions. We also interviewed Secretariat managers, the service provider's human resources advisors, and PSC representatives. Finally, we examined the nine staffing transactions carried out by the Secretariat between April 1, 2005 and September 30, 2006. Casual and student appointments were excluded from the audit.
11. For more information, please see the **About the audit** section at the end of this report.

Observations

The infrastructure supports responsible staffing management

12. We expected staffing within the Secretariat to be consistent with its human resources planning and aligned with the organization's business planning.
13. We found that the Secretariat continually focusses on the strategic management of its human resources in order to maintain a skilled workforce. During the period covered by the audit, the Secretariat developed a strategy and plan for human resources management. In addition, to better manage the associated risk, it developed a Policy on talent management to encourage the development and retention of its employees.
14. In December 2005, the Public Service Commission (PSC) placed conditions on the Appointment Delegation and Accountability Instrument (ADAI) that it signed with the Secretariat's Deputy Head. In signing the ADAI, the Secretary committed to respecting all the terms and conditions of delegation outlined therein. The Secretary also committed to ensuring that all sub-delegated officials are competent in the area of staffing, are aware of the terms and conditions, and will adhere to them. We therefore expected the roles and responsibilities for staffing within the Secretariat to be clearly defined and understood, and the people responsible for exercising them to have been informed in writing of their responsibilities. We also expected the Secretariat to have an accountability structure in place.
15. The Secretariat, like a number of small federal organizations, does not have its own human resources service and must therefore use a human resources service provider. The Secretariat uses the Shared Human Resources Services (SHRS) of Public Works and Government Services Canada. In April 2006, the two parties signed a new Memorandum of Understanding (MOU) for the period from April 2006 to March 2007. The MOU specified all the services to be provided by SHRS, as well as the Secretariat's obligations. It also defined the roles and responsibilities for staffing of Secretariat managers and SHRS human resources advisors.
16. We found that the Secretary decided to sub-delegate his staffing authorities to the Deputy Secretary only, and he drafted an appropriate written instrument for doing so. The sub-delegation instrument clearly defines the roles and responsibilities for staffing and the way the delegated authorities are to be exercised. We also noted that the Secretary made human resources management a priority for the Deputy Secretary; objectives and indicators for measuring results in that area were integrated into the objectives set out in the Deputy Secretary's performance agreement.

Mandatory policies and criteria are in place

17. Under the current PSEA, the PSC developed an Appointment Framework that includes a number of appointment policies. However, the PSC requires that organizations develop their own policies and criteria with respect to area of selection, corrective action and revocation, and the use of non-advertised appointment processes. We expected the Secretariat to have developed and approved these mandatory policies and criteria in support of staffing based on the appointment values of fairness, access, transparency and representativeness.
18. In 2005, with the help of the Small Agencies Transition Support Team of the Public Service Human Resources Management Agency of Canada, (now known as the Canada Public Service Agency) the Secretariat drafted the mandatory appointment policies and criteria regarding area of selection, corrective action and revocation, and the use of non-advertised appointment processes. We further noted that the appointment policies and criteria were approved by the Secretariat's executive committee, and that they are consistent with the requirements set out in the PSC Appointment Framework.
19. In February 2007, the Secretariat was updating its area of selection policy to reflect the national area of selection in advertised external appointment processes for officer-level positions, as required by the PSC's policy since April 2006. The Secretariat's managers have committed to regularly updating their policies to keep them in compliance with the PSC's new requirements.
20. In addition, the Secretariat developed a Policy on talent management that includes a professional development program. The program allows the Secretariat to hire people at a "developmental level." Participants take part in specific training and learning activities to enable them to attain a higher level. They have pre-established performance objectives, and they are promoted through a non-advertised internal process that respects the Appointment Framework, the PSC's policies, and the appointment values of the current PSEA. The Secretariat made certain changes to this policy in response to concerns raised by the PSC in 2005. The employees were informed of the policy and it is now announced during staffing processes.

Staffing framework and activities are communicated

21. We expected the Secretary to have established a communications strategy to ensure the transparency, clarity and accessibility of staffing information. In particular, we expected the Secretary to inform the Secretariat's staff and union representatives of the organization's staffing policies and practices.
22. We found that the Secretariat used various mechanisms (information sessions, meetings, memoranda, e-mails, guides, shared drive) to provide interested parties with relevant information on human resources management, and specifically on staffing. In addition, human resources initiatives were on the agenda for staff meetings. In this way, the entire staff was informed of the changes to staffing practices related to the coming into force of the current PSEA, and of updates to staffing processes underway.
23. In accordance with the ADAI, the Secretary must consult the bargaining agents about the development and review of appointment policies. Secretariat representatives informed us that they had consulted the bargaining agents through the Small Agencies Transition Support Team of the Public Service Human Resources Management Agency of Canada. In November 2005, the support team sent a letter to the bargaining agents on behalf of the small agencies. Included was a generic model of the appointment policies.
24. However, the Secretariat's mandatory appointment policies and criteria, which came into effect in January 2006, were not shared with the representatives of the service provider until January 2007. The purpose of these key documents is to provide a decision-making framework that ensures that the appointment system is administered consistently, that appointment values are respected, and that all individuals are treated fairly.

Training is adequate

25. We expected the Secretariat to develop systems and practices to ensure learning in the area of staffing for sub-delegated managers. We also expected these managers to have access to trained human resources advisors whose expertise in the Appointment Framework had been validated by the PSC.
26. Continuous learning is one of the guiding principles of the Secretariat, which is committed to employing people who are professional and conscientious. The Secretariat's Policy on talent management, approved in December 2006, is a framework for implementing this learning culture. The Secretariat offers all its employees, including managers, opportunities for development based on a competency profile that includes a learning continuum and a personal development plan. Before being granted subdelegated authorities, the Deputy Secretary received training on the current PSEA.

27. We found that the service provider's human resources advisors each have a personal learning plan and receive timely training in staffing. We also noted that Secretariat managers have access to human resources advisors whose expertise in the Appointment Framework has been validated through the PSC Appointment Framework Knowledge Test for the current PSEA.

Staffing transactions conducted under the current PSEA respect the appointment values

28. We expected the Secretariat's staffing transactions to comply with the previous or current PSEA, the staffing values and the relevant policies. We also expected the service provider's human resources advisors to provide, throughout the staffing process, appropriate advice and guidance to Secretariat managers, including an effective challenge function.
29. We examined seven staffing transactions conducted under the previous PSEA and two under the current PSEA. We found that the two transactions that we audited under the current PSEA respected the appointment values. However, we noted that two of the seven transactions conducted under the previous PSEA did not respect the values of fairness and transparency. In the first transaction, the assessment methods used did not allow all the personal suitability qualifications posted to be evaluated. In the second, no right of recourse was posted. In both cases, the service provider's human resources advisors did not provide Secretariat managers with an effective challenge function. We recommend that the Secretary ensure that a human resources advisor is available to provide Secretariat managers with an effective challenge function as stipulated in the Memorandum of Understanding with the service provider.
30. We expected staffing files to be organized and to contain sufficient evidence to support the appointment decisions. In the seven staffing files audited under the previous PSEA, the decisions made throughout the staffing process were not always well supported. However, we noted that the two staffing files audited under the current PSEA were well organized and contained the necessary evidence to support the appointment decisions. In our opinion, the Secretariat's continued efforts since 2005 to improve its staffing framework and activities are delivering results.

Tracking and monitoring mechanisms have been developed

31. Monitoring involves the ongoing review of activities in relation to plans, procedures and performance standards to determine whether these activities are carried out as planned and whether they are producing the desired results. We expected the Secretariat to have in place an appropriate process that met PSC reporting requirements for tracking and monitoring its staffing activities.

32. In October 2006, the Secretariat implemented its own management framework based on the Staffing Management Accountability Framework (SMAF). The Secretariat's management framework includes the PSC's mandatory requirements as well as organizational performance indicators for staffing, and sets out sound management practices.
33. The Memorandum of Understanding signed between the Secretariat and the service provider describes the services, the staffing performance indicators, and the quality assurance program. In our view, these would be effective mechanisms for tracking and monitoring the Secretariat's staffing activities. However, in conducting our audit, we noted that the Secretariat and the service provider were still in the process of implementing all components of the tracking and monitoring system.
34. According to the Memorandum of Understanding, the service provider must, among other things, audit staffing files. However, at the time of our audit, the service provider had not yet audited any staffing files. In our view, the weaknesses noted in the tracking and monitoring activities could place the Secretariat at risk with respect to compliance with authorities and improving its staffing activities. We recommend that the Secretary ensure that all components of the quality assurance program, as set out in the Memorandum of Understanding with the human resources service provider, are implemented.

Conclusion

35. We conclude that the ongoing efforts made by the NAFTA Secretariat – Canadian Section, since 2005 have resulted in improvements to its staffing systems and practices. Our audit work showed that the Secretariat's management took the necessary steps to establish an appropriate framework for managing staffing activities, and that the framework meets the PSC's requirements under the current PSEA. We also found that the staffing transactions conducted by the Secretariat under the current PSEA were compliant and respected the appointment values.

The PSC has removed its remedial measures

36. As a result of this audit, the PSC has removed the conditions it imposed in 2005 on the NAFTA Secretariat – Canadian Section, in the area of delegated authorities for appointments. The conditions for delegation and accountabilities are stated in the standard ADAI, which has been established with the Deputy Head of the Secretariat.

Response of the NAFTA Secretariat – Canadian Section. *The audit conducted by the PSC properly reflects the efforts made by the Secretariat to fully assume its responsibilities and exercise its powers, as set out in the PSEA. The PSC also confirms the work done during the audit period to implement a new internal policy, the Policy on Talent Management, which will promote continuous learning and staff retention, among other things.*

The Secretariat is pleased to note that its participation in the work of the Small Agencies Transition Support Team has been productive, since it has allowed it to bring its management practices and relevant internal policies into line with the new requirements of the PSEA. Thus, the Secretariat has adopted the new values of fairness, transparency, access and representativeness for the appointment process.

As the PSC recommends, the Secretariat will continue to work together with its service providers to improve communications and ensure audit activities are monitored, as agreed upon in our memorandum of understanding. The Secretariat undertakes to collaborate with its colleagues from the PSC, central agencies and its service providers to improve its staffing management practices.

About the audit

Objectives

The objectives of the audit were to determine whether:

- the NAFTA Secretariat – Canadian Section, has an appropriate framework, systems and practices for managing staffing activities; and
- the Secretariat's staffing transactions comply with the *Public Service Employment Act* (PSEA), relevant policies, and the delegation instrument signed with the Public Service Commission (PSC).

Scope and method

Audit activities consisted of interviews with human resources specialists from Shared Human Resources Services of Public Works and Government Services Canada, PSC representatives, and Secretariat managers responsible for staffing. We reviewed the Secretariat's documentation including plans, policies, programs, processes, communications and reports with respect to staffing. We also reviewed the staffing transactions carried out by the Secretariat from April 2005 to September 2006 (see **Table 1**). Casual and student appointments were excluded from the audit. The staffing transactions audited were governed by either the current or the previous PSEA.

Table 1: Overview of audited files

Transaction type	Number
Transactions audited under the previous PSEA	
Closed competitions	2
Open competitions	3
Deployment	1
Appointment without competition	1
Total transactions audited under the previous PSEA	7
Transactions audited under the current PSEA	
Advertised external appointment process	1
Appointment of a priority person	1
Total transactions audited under the current PSEA	2
Total transactions audited under the previous and the current PSEA	9

Source: Audit, Evaluation and Studies Branch of the Public Service Commission of Canada

Criteria

The following audit criteria were drawn from the Staffing Management Accountability Framework, as well as the Appointment Delegation and Accountability Instrument signed by the Secretariat and the PSC.

- Staffing is consistent with human resources planning and is aligned with the organization's business planning.
- Authorities have been sub-delegated in writing to officials exercising appointment authorities.
- Roles, responsibilities and accountabilities for staffing activities within the Secretariat are clearly defined, communicated and understood by sub-delegated officials and the service provider.
- Sub-delegated officials have received the necessary training and have access to appropriate advice and guidance and the tools they need to exercise their staffing authorities.
- Sub-delegated officials have access to trained human resources advisors whose expertise in the Appointment Framework has been validated by the PSC.
- The Secretariat has approved the mandatory appointment policies and criteria in support of values-based staffing.

- The Secretariat has informed the bargaining agents and its employees of the organization's staffing policies and practices.
- The Secretariat has an appropriate process for tracking and monitoring its staffing activities that meets PSC reporting requirements.
- Staffing transactions comply with the PSEA and relevant policies, and are supported by sufficient and appropriate documentation.

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Glossary of terms under the current PSEA

Advertised appointment process

When persons in the area of selection are informed of and can apply to an appointment opportunity.

Appointment Delegation and Accountability Instrument (ADAI)

The formal document by which the PSC delegates its authorities to deputy heads. It identifies authorities, any conditions related to the delegation and sub-delegation of these authorities and how deputy heads will be held accountable for the exercise of their delegated authorities.

Appointment of a priority person

Appointment of a person who has an entitlement under the PSEA or PSER, for a limited period, to be appointed ahead of all others to vacant positions in the public service. The person must meet the essential qualifications of the position.

Area of selection

The geographic, occupational, organizational or employment equity criteria applicants must meet to be eligible in an appointment process. In a non-advertised internal process, the area of selection determines who has the right to complain to the Public Service Staffing Tribunal.

Deployment

The movement of a person from one position to another in accordance with Part 3 of the PSEA. A deployment cannot be a promotion, cannot change the tenure of employment and cuts ties to the employee's former position.

External appointment process

A process in which persons may be considered, whether or not they are employed in the public service.

Non-advertised appointment process

An appointment process that does not meet the criteria for an advertised appointment process.

Staffing Management Accountability Framework (SMAF)

The SMAF outlines the PSC's expectations for a well managed staffing system and helps the PSC determine whether deputy heads are carrying out their delegated authorities. The SMAF is comprised of five elements: governance; planning; policy; communication and control.

Glossary of terms under the previous PSEA

Appointment without competition

An appointment made without holding a competition, and based on either individual or relative merit.

Closed competition

A competition open only to persons employed in the public service.

Open competition

A selection process by competition in which members of the general public as well as persons employed in the public service are eligible to compete.