

LIST OF ACRONYMS

AAU—Agent Affairs Unit

CARF—Case Assignment Report Form

CARS—Crown Agents Reporting System

FPS—Federal Prosecution Services

FTE—full time equivalent

HRDC—Human Resources Development Canada

IFMS—Integrated Financial and Materiel System

IMB—Information Management Branch

JEF—Justice Electronic Forms

LCSS—Legal Contracts Support Section

LPMU—Litigation Practice Management Unit

TBS—Treasury Board Secretariat

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EXECUTIVE SUMMARY

The overall objective of this audit was to review and assess the adequacy of the payment verification process for legal agent accounts and the related financial control framework. The Minister of Justice and Attorney General of Canada is responsible for the legal affairs of the government as a whole and for providing legal services to individual departments. To carry out this mandate, the Department of Justice relies on in-house counsel as well as private sector lawyers known as legal agents (agents). There are two main categories of agents:

- standing agents (there are approximately 250 standing agent firms) are appointed for an indefinite period of time to conduct work of a specific nature on an as-needed basis, primarily for prosecutions;
- ad hoc agents (there are approximately 200 ad hoc agent firms) are appointed to provide services with respect to a specific case or aspect of a case. Most civil agents are ad hoc.

The agents' work has an impact on the result of prosecutions and litigations. Legal agent expenditures have increased 42 percent, from \$38.5 million in 1997–98 to \$54.8 in 2000–01. Agent costs for drug prosecutions are paid from the Drug Prosecution Fund, which is managed by the Department. For non-drug and civil work, agents are paid by the client department, which in some cases is the Department of Justice.

The National Agent Affairs Program was established in 1996. The responsibilities of Department of Justice units involved in appointing and verifying accounts of agents are as follows.

- For the Federal Prosecution Services (FPS) component, responsibility resides with the Agent Affairs Unit (AAU) in the Criminal Law Branch and with agent supervision units in each regional office.
- The AAU was initially coordinating both FPS and civil agents. Recently, the responsibility for civil agents was transferred to the newly created Litigation Practice Management Unit (LPMU) in the Civil Litigation Branch. Instructing counsel at regional offices and headquarters are responsible for direct supervision of civil agents and verification of their accounts (invoices).

- The Legal Contracts Support Section (LCSS) verifies the accounts of FPS agents and records the accounts of civil agents. Also, a Systems Manager assists with activities related to agents such as reporting, sampling, and verification systems. Both LCSS and the Systems Manager are located in the Accounting Services Section in the Finance, Administration and Program Directorate, Corporate Services Branch.

Accounts are verified in various degrees. In the last year there have been significant improvements in the procedures used for the verification and payment of FPS accounts. Also, both LCSS and the AAU are participating in the development of the iCase system, which should allow for improved verification of FPS agent accounts. In addition, a project is planned to develop benchmarks to facilitate cost comparisons between FPS agents and regions. Most improvements have been made in managing FPS agent costs since the Department has had to manage large cost increases affecting the Drug Prosecution Fund. The LPMU's recent efforts have been on improving the appointment process, control on case cost estimates and increasing the number of cases with flat and other alternate fees arrangements.

In 1993, the report of the Auditor General of Canada noted that control over agents needed to be strengthened, that basic management control information was lacking, and that there was insufficient incentive to manage the cost of litigation services. Furthermore, a 1999 Internal Audit recommended that an overall framework be developed that would outline: the organizational set-up for the managing agent's activities; the reporting relationship of units involved in these activities; and the mandate, roles, and responsibilities of all key parties.

Management Information

An informative quarterly cost report is issued jointly by the AAU and the Finance, Administration and Programs Directorate to senior management. This report includes payments to agents for FPS and civil litigation.

There is no report presenting a picture of expenses against work, such as cost and time spent per case, stratification of costs by range, and number of cases.

The AAU and Accounting Services have produced several ad hoc reports on costs to manage FPS agent expenses but they can only provide limited information. Costs are not available in relation to specific lawyers, time spent, type of cases, and litigation codes.

As with FPS, civil agent cost analyses has the same limitations and there are fewer ad hoc reports. There is a significant variation—\$37 million—between departmental and Public Accounts reports for 2000–01, due almost exclusively to civil litigation costs. The 2000–01 comparison shows a large difference for agent expenditures, with the Public Accounts total being \$89 million, or \$37 million higher than the LCSS reported total of \$52 million. Out of the total \$37 million difference, the Department of Justice had the biggest difference, which was \$8 million. There are various reasons for the differences, which are not easy to resolve. Some differences exist because the LCSS is not receiving a copy of all civil litigation accounts and client departments contract for legal services outside the legal agent process. Also, departments contract for legal advice that does not need to be conducted by appointed legal agents, and incorrectly charge the costs to the financial codes used for agent work. The Department cannot effectively manage costs for which it is responsible if it does not have complete information on these costs.

Costs reporting for all agents has been limited because the current Integrated Finance and Materiel System (IFMS) does not meet the requirements for agent cost reporting and analysis.

There is no reporting on the status of the National Agent Affairs Program, such as progress against plans, performance measures, issues, and agent appointment activities.

Management Control Framework

Various comprehensive studies have discussed policies and a management control framework for agent affairs, but no policies to formalize them have been issued. The recommendations of the 1999 Internal Audit have not been entirely met regarding the management control framework.

The National Agent Affairs Program was established in 1996. Since then, the administration of civil and FPS agents has been separated and the original program steering committee has been disbanded. Program documentation needs updating.

Only the AAU has a current and formally defined mandate. While we found no evidence of major problems due to lack of understanding of mandates, there are inefficiencies and misunderstandings. These can be reduced if the responsibilities of all the units involved in the program are formally defined in policy documents.

Strategies and plans are covered in various draft documents and studies; these are partially followed and have resulted in improvements. However, there are no yearly plans. During the

preparation of this report, after we finished our examination, we were provided with a vision and a plan for 2002–03 that was prepared by the AAU for the administration of FPS agents. A vision and plan are required for LPMU (administration of civil agents).

There are no comprehensive procedures available to all involved on how to verify accounts. Manuals are required for account verification procedures for the agent supervisors, instructing counsel, the AAU, LPMU, and LCSS.

Responsibilities now significantly overlap for the AAU, LCSS, and the Systems Manager. Efficiency would improve if these three entities were merged. During the audit period, the AAU and Accounting Services made significant progress in defining the new merged organization.

Appointment Process

The appointment process is subject to very short deadlines. Once appointed, standing agents are used following a simple case assignment procedure. Regular appointments are required for new standing agent firms, new lawyers in the standing agent firms, and for ad hoc agents. Staff who request appointments of agents mentioned that lately delays in the appointment process have decreased to some extent, but that more needs to be done. The target standard service by AAU is 10 days, but often urgent appointments are required sooner due to scheduled court appearance dates. Ad hoc agents for both the FPS and civil assignments sometimes start work prior to receiving their letter of appointment, contrary to government policy. The AAU mentioned that an employee will be added to the appointments section and this should improve the process. Lists of agents are maintained and information on appointments is provided when requested. However, no formal statistics are maintained and analyzed on new appointments, terminations, and resignations.

Agents are appointed with a letter that includes several attachments outlining conditions, guidelines, and billing procedures. The attachments are outdated and contain some duplicated information. A new terms and conditions of appointment document for FPS agents was in draft form and expected to be approved soon.

Staff in two offices mentioned that a few FPS and civil agents are frequently used on an ad hoc basis and they should be appointed as standing agents.

There have been problems with appointed agents who did not have the required knowledge for their cases. Instructing counsel were unaware of the procedures for changing agents; however,

agents have been changed when requested by instructing counsel. During the writing of this report we were informed that a new procedure was implemented in September 2001 whereby instructing counsel and agent supervisors are now consulted prior to the appointment of those agents who were not suggested by them.

Processing of Accounts

Until 1997, the LCSS was using the Crown Agents Reporting System (CARS) to verify FPS accounts. In 1997, LCSS converted to the IFMS system for technical reasons. The IFMS is a financial system and one of its modules processes payments to vendors. However, the IFMS was not intended to provide all the functionality of CARS. This has resulted in increased manual verification and increased time to enter less data. For example, the IFMS does not record the time spent or the cost incurred by lawyers. Instead, costs are recorded against the law firm. Therefore, many edits (automated system verifications) are not taking place and reporting is reduced. There are other aspects of the IFMS that result in inefficiencies for LCSS staff and other stakeholders.

By comparison, the HRDC legal services unit uses its own computer system to verify Canada Student Loan accounts—this is the kind of system that the LCSS should use. Agents enter their time and disbursement costs online (connecting to the system through the Internet) and there are standard times for activities based on an activity code set. The system has an excellent ability to produce reports for analysis. However, the system has design limits and would not meet the processing requirements for all legal agents.

The proposed iCase system, which is being developed by the Department to replace the current Caseview and Timekeeping systems and to process information for agents, is expected to provide required information on agent costs. Agents would enter timekeeping and other data into iCase for billing the Department. It was unclear to us in what degree the system will be used for ad hoc agents, especially by civil agents who may not learn to use the system if they are appointed for just one case. We noted that a comprehensive system requirements document for iCase as it pertains to agents has not been prepared. Instead the requirements for the system are partially contained in various available documents and derived from the JEF system, discussions and meetings. However, the AAU was satisfied with the progress being made for iCase to meet the initial user requirements for the processing of legal agent accounts. A formal commitment is required that iCase will meet all agreed requirements for the processing of legal agent accounts. iCase will use a litigation code set. Currently, a few code sets are in use. A standardized or harmonized litigation code set will need to be developed for agents that is consistent with the

departmental code set. This is important for case benchmarking and automated account verification.

The current rates for FPS and civil agents have been in existence for 10 years and are perceived to be low. As a consequence, junior lawyers are often assigned to cases, which require more supervisory time from departmental lawyers. In taxing (checking) accounts received from agents, some agent supervisors and instructing counsel informed us that they tend to focus on the overall reasonableness of the dollar value of the account, rather than the actual number of hours claimed. The AAU and LPMU have studied the hourly rates and decided not to increase these rates at this time.

Presently there is no simple way to detect duplicate payments in IFMS. Therefore an important requirement for iCase is that it provide functionality to better eliminate the potential for duplicate payments.

FPS

All accounts are being checked by LCSS prior to payment but reasonableness checks are limited. This process is being supplemented with an additional verification whereby a statistical sample of accounts is sent to agent supervisors along with the total case billing history for them to check reasonableness. This process was recently implemented in Ontario and was to be implemented for all regions. This is probably the best improvement to the verification of accounts in several years and should meet most government approval requirements regarding section 34 of the *Financial Administration Act*, but a few improvements are required such as policies and procedures and improved tools (e.g. benchmarking) for agent supervisors to check the accounts. For supplementary verification there are high and low cost samples of cases. The low cost sample should be selected according to dollar value sampling (a statistical technique).

Civil

The LPMU has improved control by asking for explanations and revised estimates when initial case estimates were exceeded. However, there are no guidelines for the preparation of the initial estimates.

Civil accounts are reviewed by instructing counsel and their support staff, but they are following inconsistent practices. Accounts are not checked according to all terms and conditions of the

appointment. Not all instructing counsel keep records of costs-to-date for cases. Instructing counsel or support staff checking the accounts are unfamiliar or have no checklists on how to verify accounts. Guidelines and checklists are required and samples of accounts should be regularly reviewed by a person with a thorough knowledge of all the rules.

The LPMU was to use iCase for recording detailed account. This would permit computer analysis and benchmarking of costs but would require more persons to enter the data on a computer system.

Conclusions

The verification of agent accounts is a complex process. Improvements will require an improved organization, better systems, and better written policies and procedures.

Significant improvements are being made to FPS agent account verification with respect to checking reasonableness of accounts. A few improvements have been made on civil agent appointments, but more improvements are required in the verification of civil agent accounts. Yearly plans and regular management reports on program status, achievements, and challenges will inform stakeholders and facilitate measuring improvements.

The management response to the recommendations contained in this report was provided by the Executive Director, Agent Affairs Unit jointly with the Manager, Legal Contracts Support Section and the Assistant Deputy Attorney General (ADAG), Civil Litigation.

1. INTRODUCTION

1.1 Background

The *Department of Justice Act* provides the Minister of Justice and Attorney General of Canada with the responsibility for the legal affairs of the government as a whole, and for providing legal services to individual departments. The term “department” embraces Crown agencies and corporations to the extent such bodies may engage the liability, or exercise the authority, of the Crown.

To carry out this mandate, the Department of Justice relies on in-house counsel as well as private sector lawyers, known as legal agents (agents). Table 1 outlines Government of Canada expenditures on legal agents.

Table 1: Government of Canada Expenditures on Legal Agents

Legal Service Area	2000–01			2001–02 Projected Costs
	Cost of Agents (\$millions)	Number of New Cases per year (approx.)	Number of Invoices (approx.)	Cost of Agents (\$millions)
Federal Prosecution Services (FPS)	25.1	37 000	148 000	33.5
Civil and other litigation	29.7	3500	60 000	24.5
Total	54.8	40 500	208 000	58

Agents may be individual practitioners or legal firms employing several lawyers. All have to be appointed by the Minister. There are two main categories of agents:

- standing agents, who are appointed for an indefinite period of time to conduct work of a specific nature on an as-needed basis. Currently, there are approximately 250 standing agent firms;

- ad hoc agents, who are retained to provide services with respect to a specific case or aspect of a case. There are approximately 200 ad hoc agent firms.

A National Agent Affairs Program was established in 1996. The program is divided into the Federal Prosecution Services (FPS) and civil components.

Responsibility for managing agent affairs is shared between a number of departmental branches and directorates and the current management control framework is complex. The section “Management Control Framework” discusses the organization of management responsibility areas, and includes a table (Table 2) that outlines organizational responsibility. In brief, FPS includes the Agent Affairs Unit (AAU) in Ottawa, and agent supervision units in each regional office. These units have been in operation for over five years and are staffed by counsel who provide assistance to the agents and monitor and assess their work. The AAU coordinates all agent matters for the FPS, provides certain services for the civil agent program¹ and manages the Drug Prosecution Fund (agent costs for drug prosecutions are paid from this fund).

The FPS uses standing agent firms across the country and also uses agents on an ad hoc basis for specific assignments. Agents are primarily used to deliver prosecution services in areas of Canada where the Department does not have a regional office, when it is not cost-effective to handle cases with in-house counsel, or when the demand for prosecution services exceeds or is in conflict with the available time of internal staff.

The responsibility for the civil agent program resides with the Civil Litigation Branch. The AAU was initially coordinating both FPS and civil agents, but between April 2001 and November 2001 the responsibility for civil agents was transferred to the newly created Litigation Practice Management Unit (LPMU).

The civil component provides legal services of a “non-prosecution” nature. Currently, there are 15 civil standing agents in place to provide legal services for work of a routine, repetitive nature. The majority of civil work is assigned to agents by way of ad hoc appointments. Work is primarily outsourced to agents for reasons of expertise, unavailability of in-house resources, or for reasons of conflict of interest, real or perceived. Note that Table 1 figures include civil litigation (most of the work) as well as legal agent expenditures for other areas such as constitutional and international law.

¹ Although we found no official evidence of a formally defined “civil agent program,” the many departmental service components related to civil agent activities essentially form a service delivery model similar to that of the FPS. For ease of reference, we will refer to these various civil components as the *civil agent program* throughout this report.

History

Because the use of agents grew substantially in the early 1980s, it was decided that a separate unit would be created to manage the accounts (agent invoices) and the appointment process. Thus the Legal Contracts Support Section (LCSS) was created within the Corporate Services Branch. Over time, the Department has changed its management of agents and the role of the LCSS.

- Until 1992, the LCSS verified and processed all accounts for FPS and civil agents.
- In 1993, the report of the Auditor General of Canada noted that control over agents needed strengthening, that basic management control information was lacking, and that there was insufficient incentive to manage the cost of litigation services.
- Around 1995, the processing of agent accounts for Canada Student Loans was transferred to the legal services unit of Human Resources Development Canada (HRDC).
- In 1996, the administration of the Drug Prosecution Fund was transferred from Health Canada to the Department of Justice.
- In 1996, the National Agents Affairs Program and the AAU were created.
- In 1996, agent supervisors (regional supervision units) were appointed to supervise FPS agents (instructing counsel for civil agents were already in place).
- Around 1997, LCSS was transferred to the Department's Finance, Administration and Program Directorate from another section in the Civil Law and Corporate Management Sector. The LCSS decreased its civil litigation role to checking only the case and billing numbers and recording the cost of civil cases.
- In 1999, the National Agents Affairs Program was subject to an internal audit, which reiterated and expanded on the concerns raised by the earlier Auditor General audit.

In recent years there have been significant changes in the systems and procedures used for the verification and payment of accounts. Both the LCSS and AAU have been making various improvements to the verification of accounts and related financial control framework. As noted already, FPS agent fees and expenses are covered by the Drug Prosecution Fund; agent fees and expenses for non-drug and civil work are paid by the client department which in some cases is the Department of Justice.

1.2 Purpose and Scope

The overall objective of this audit is to review and assess the adequacy of the payment verification process of agent accounts and the related financial control framework. The detailed objectives of this audit are to review and assess:

- the financial control framework for account verification including policies, organization, guidelines, procedures, training, and systems that primarily affect the LCSS, AAU, and LPMU;
- the effectiveness of management reports related to agents;
- the effectiveness of the procedures, systems, and records in place for verifying agent accounts;
- the appropriateness of new processes and organization being implemented for the verification of agent accounts;
- the appropriateness of existing processes related to the verification of agent accounts.

1.3 Methodology

The methodology employed in this audit consisted of:

- interviews with staff of the AAU, LPMU, and LCSS;
- interviews with staff from various other departmental units such as in-house counsel supervising civil litigation conducted by agents and agent supervisors of agents conducting prosecutions;
- interviews with staff from the Financial Management Directorate, iCase system project, and the Information Management Branch (IMB);
- interviews with agents;
- visits to the Ottawa-Gatineau Federal Prosecution Unit, Ontario Regional Office, the legal service unit at HRDC, and the Portfolio Unit at Citizenship and Immigration Canada;
- telephone interviews with a sample of staff involved in the verification of agent accounts at other regional offices;
- a review of systems, records, and various documents regarding account verification and the related financial control framework.

Fieldwork was conducted between November 2001 and March 2002.

2. MANAGEMENT CONTROL FRAMEWORK

The control framework for managing agents and their accounts involves several units and the current organization is somewhat complex. For example, the work of agent supervisors is coordinated by the AAU but supervisors have a line reporting relationship to the regional directors. Likewise, instructing counsel who supervise civil agents receive guidance from LPMU and have a line reporting relationship in their respective units located in headquarters, the regions, and other Department of Justice offices. The LPMU is new and its role is still being defined. Table 2 identifies the main units involved, their main activities, and the approximate full-time equivalent (FTE) staff assigned to each unit.

It should be noted that during the audit the Finance, Administration and Program Directorate was reorganized. Also, we learned that the civil component had become separate from the AAU.

Table 2: Units Involved in Legal Agent Account Verification					
Corporate Services Branch		Federal Prosecutions Services, HQ		Civil Litigation Branch	
Finance, Administration and Programs Directorate Financial Management Section		Strategic Prosecution Policy Section	Criminal Law Section— OGFP (line reporting) Regional offices (functional reporting)	Office of the Assistant Deputy Attorney General, Civil Litigation	Regional offices, HQ, legal service units, portfolio units (line and functional reporting)
Accounting Services Unit					
Systems Manager AS3 1 FTE	Manager, LCSS AS4 9 FTEs and 4 contract staff	Executive Director, AAU EX2 6 FTEs	Agent Supervisors, agent supervising units LA2Bs, LA2As, administrative staff 25 FTEs	Counsel-Head, LPMU LA2A 1.5 FTE	Instructing Counsel
Current Activities					
<ul style="list-style-type: none"> • Reporting • Sampling • Verification systems 	<ul style="list-style-type: none"> • FPS account verification • Civil accounts recording 	<ul style="list-style-type: none"> • FPS agent policy • Verification systems • Management reporting • Coordination of agent supervision units • Processing of agent appointments 	<ul style="list-style-type: none"> • Request for agent appointments • Supervision of agents • Verification of some accounts • Verification of some cases • Approval of special expenses 	<ul style="list-style-type: none"> • Civil agent policy • Processing of agents appointments 	<ul style="list-style-type: none"> • Request for agent appointments • Supervision of agents • Verification of accounts • Approval of special expenses • Client liaison

AAU—Agent Affairs Unit
 HQ—Headquarters
 LCSS—Legal Contracts Support Section
 LPMU—Litigation Practice Management Unit
 OGFP—Ottawa-Gatineau Federal Prosecutions

Note: This table is not intended to identify all activities of the listed units but only those that will help the reader understand this report.

2.1 Mandate and Policies

We examined the program definition and the related mandates of each key unit. There are several documents that describe unit responsibilities and mandates with respect to the National Agent Affairs Program (recently divided into FPS and civil). The many documents dealing with the program and related mandates are incomplete, not well linked, and not up to date.

- We were informed that the 1996 document *The Agent Affairs Program: Legal Agents Steering Committee* was approved to establish the National Agent Affairs Program. The document only briefly describes the program and the committee was disbanded in the summer of 2001.
- The *Proposal for the Establishment of the AAU*, February 16, 1996 was approved by the Assistant Deputy Attorney General, Criminal Law Branch. This document is not up-to-date since a different unit has been created with responsibilities for civil agents. Various comprehensive studies have discussed policies and a management control framework for the AAU but no policies to formalize them have been issued.
- The AAU mandate for FPS activities is generally understood and is documented in the FPS deskbook, dated 2000. However, the mandate makes no specific reference to account verification, a very important responsibility area. Also, the AAU's role in relation to LPMU needs clarification.
- In February 2000, a draft "Program Design—Criminal Component" was written. This document provides a description of the National Agent Affairs Program, its objectives, key functions, and a list of current and proposed outputs and expected impacts and effects of the program. This document does not specify who is responsible for the program but we were informed that the Agent Affairs Unit was responsible for it.
- The mandate of LCSS is outlined in a document dated September 8, 1988. This document is outdated and does not accurately reflect current practices.

The LPMU commissioned a study in 2001 to review the civil agent program. The study objectives are to explain current methods of managing civil agents, propose a future vision, and analyze gaps. We did not receive it by the time we finished our fieldwork in March 2002.

An Internal Audit in 1999 recommended that an overall framework be developed for the management of agents. It was recommended that this framework outline: the organizational set up for the administration/management of agent activities; the reporting relationship of units involved in these activities; and the mandate, roles, and responsibilities of all key parties. A recent study conducted by a consulting firm also noted that the lack of a documented

accountability or management framework increases the confusion regarding roles, expectations, and performance of agents and their related processes.

More complete and updated program definitions are required. We found no evidence of major problems due to a lack of understanding of the National Agent Affairs Program. However, it would be better for the future if the program's responsibility areas are updated and formally assigned and communicated. Updated information could be issued in the form of a policy so that it is easily available to all staff.

Recommendations and Management Response

- 1. It is recommended that the AAU Executive Director develop an updated document that defines the National Agent Affairs Program—FPS, obtain necessary approvals for the document, and ensure its appropriate distribution.**

I agree. The National Agent Affairs Program—FPS has evolved to the point where it involves unique functions to supervise agents and perform the account review process. These responsibilities must be clearly delineated within an overall framework and understood within regional FPS so as to eliminate confusion and implement the AAU's management control framework. The possible transfer of LCSS to the AAU will bring significant changes to the roles and responsibilities of the AAU.

- 2. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, ensure that updated documents are developed that define the National Agent Affairs Program—Civil Agent Program, a mandate for the LPMU including its relationship to the AAU, and ensure that these documents are approved and issued.**

I agree. The responsibility for the civil component of the agent program was transferred to the Civil Litigation Branch in 2001, under the management of the Litigation Practice Management Centre² created in 2002 (referenced throughout as LPMU). The mandate and roles and responsibilities of the LPMU are defined in the document *The Litigation Practice Management Centre Mandate*.

An updated civil agent program design, which includes program objectives, activities, roles and responsibilities, outputs/products and performance indicators, lays the foundation for an

² At the time the auditor conducted his research, the Litigation Practice Management Centre was known as the Litigation Practice Management Group and was referenced throughout by the acronym LPMU. For the purposes of the management response, the Litigation Practice Management Centre will be referenced by LPMU.

evaluation framework, subsequent evaluation and the development of relevant management and administrative policies and procedures to guide all stakeholders (i.e. - staff, departmental colleagues, government departments and agencies, private sector counsel, Minister's Office, etc.).

Further to a recognized need for a benchmark for planning and an evaluation framework for comparison purposes, in order to report on progress against plans or performance measures, work is underway with Justice Canada's Evaluation Division for the development of a Results-Based Management and Accountability Framework (RMAF) for the civil agent program.

The Program design complements the *Management Control Framework of the Agent Affairs Program* (MCF), developed by *Deloitte Consulting* and dated May 2001 (copy was provided to auditor as a reference document). Amongst other things, the MCF defines the roles, responsibilities and relationships between the different arms of the departmental Agent's Program, i.e. AAU, LCSS and the Civil Component of the Program.

The new Civil Litigation Branch Intranet (JUSnet) site was published November 11, 2002 and includes information with respect to the LPMU including its responsibilities for the Civil Component of the Agent Affairs Program. It has been designed and will be used to allow for the communication of all relevant documentation. As well, information with respect to agents will also continue to be communicated throughout the Department through other ad hoc communications.

In support of the government's commitment that integrity prevails in government operations, the Department of Justice is directing the review of legal services in close cooperation with the Treasury Board Secretariat. In the context of this review, and, further to the recommendation and endorsement of the Minister and Deputy Minister of Justice, we are exploring with a view to renewal, the way in which we manage the delivery of legal services by agents. Options are being studied to ensure that value is obtained from legal agents and that the principles of transparency, accountability and value are reflected in the selection, appointment and management of legal agent activities. Changes are expected in the areas of operations, financial management and policy. The development of an implementation plan and supporting business case are in progress to move forward with renewed practices and supporting structures and systems. The *Civil Agent Program Design* and *Litigation Practice Management Centre Mandate* will be amended in a timely fashion to reflect resulting changes.

Refinements to the MCF will be made in order to reflect the transfer of responsibilities for the Civil Component of the Program to the LPMU, as well as changes resulting from the program renewal. In consultation with the AAU Executive Director, the ADAG (Civil Litigation) will confirm what, if any, roles and responsibilities remain with the AAU where the Civil Agent Program is concerned (see response to recommendation # 5).

Note: In the next section, under the heading “Organization,” the proposed merger of LCSS with AAU is discussed. If efforts to merge the LCSS with AAU fail, then it would be necessary to develop an updated, separate mandate for the LCSS. Otherwise, the LCSS’s mandate would be part of the AAU mandate.

2.2 Organization and Resources

Organization

Overall organization for managing agents and their accounts has already been summarized in the “Introduction” and presented in Table 2. As noted, the Department’s organizational structure of the National Agent Affairs Program involves several units and is somewhat complex.

Many years ago LCSS had responsibility for all agent appointment activities and accounts. These responsibilities are now shared with the Systems Manager (Finance, Administration and Programs Directorate), the AAU, and the LPMU. It has become evident to the auditors and to the units involved that responsibilities now significantly overlap and that efficiency and communications would improve if the Systems Manager and LCSS were merged with the AAU. The LCSS and AAU have frequent dealings with the same agent supervisors and agents and work together to design new processes. For example, letters have to be obtained from agents for AAU waivers and departures and these letters are used by both the AAU and LCSS. The Systems Manager is assigned to accounting projects and recently spent about 80 percent of his time on activities related to agents such as reporting, sampling, and verification systems (all discussed later in this report). He now reports to the Accounting Services Manager, but spends most of his time working with the LCSS and AAU. In addition, the new statistical account verification system, also discussed later, requires a closer working relationship between the Systems Manager, LCSS, and the AAU. During the audit, LCSS staff, AAU staff, and some instructing counsel mentioned they wished the units would merge. In fact, the AAU and Accounting Services has made significant progress in defining a new merged organization.

The role of the agent supervision units is still evolving. Progress has been made in defining their roles and staffing the units. Generic job descriptions were provided by the AAU and these have been customized and adopted by the regional offices and Ottawa-Gatineau Federal Prosecutions. We found that agent supervisors are actively monitoring and supervising agents. During the audit very few agent supervisors were participating in the verification of accounts, but this will change with the new statistical verification process.

As discussed in “Mandate and Policies,” the roles and responsibilities for the LPMU are still being defined. Now, the AAU processes civil agent appointments under the functional direction of the LPMU. The LCSS maintains civil account paper records and records civil agent expenses on the department-wide Integrated Finance and Materiel System (IFMS). In our opinion the development and use of systems and audit processes requires a critical mass of staff in order to maintain sufficient knowledge and backup of resources. Including the LCSS and Systems Manager in the AAU would provide this critical mass. However, the LPMU does not currently have this critical mass. To avoid a complex split and overlap of activities, the processing activities for both civil and FPS agents could remain with the AAU and LCSS. Since the AAU reports on a line basis to FPS, a process will be required to ensure that the separate priorities for civil agents are addressed. Because the same agent firms are often hired by the Department it would be simpler if those firms have fewer points of contact. The activities of the LPMU could cover policy and program strategies for civil litigation and a process would be needed whereby the requirements for account verification and LPMU system requirements are addressed by the AAU. On the other hand, the LPMU is considering what its role should be and it could decide to undertake some account verification and system activities. The audit team is of the opinion that, at this point in time, making such a decision is premature and has implications beyond the verification of accounts. We include it here only for information.

Recommendations and Management Response

- 3. It is recommended that the Accounting Services Manager and the AAU Executive Director implement the merging of the legal agents related functions of the LCSS unit and the Systems Manager position with the AAU.**

We agree that this option should be closely examined. There is currently a discussion paper, which looks at all aspects of the proposed merger. The draft recommends the merger of the two units.

- 4. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, and the AAU Executive Director ensure that the agent responsibility areas of the AAU, LCSS, and the LPMU are documented.**

Civil Litigation

I agree. Further to the 2001 transfer of responsibility for the civil component to the Civil Litigation Branch, under the management of the LPMU created in 2002, the undue overlap of activities has been eliminated and operations and accountability of the Agent Affairs Program have been enhanced. The MCF referred to above defines and documents the roles and responsibilities as well as relationship of the AAU, LCSS and of the Civil Component of the Program. The MCF will be refined to reflect the changes resulting from the transfer of responsibilities to the LPMU as well as the renewed approach reflected in response to recommendation # 2.

In accordance with the current practice, the AAU and LPMU are kept apprised of program issues of common interest to both sides of operations and, where necessary, joint effort communications are drafted.

FPS

As noted in my response to recommendation #1, the role of the regional agent supervisor units has evolved and is unique within FPS. This has direct implications on the overall management of the AAP-FPS. Documentation is particularly important for the account review process as it relates to iCase.

Note: This and following recommendations assume that the AAU and the LCSS will be merged.

- 5. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, and the AAU Executive Director consider maintaining operational aspects with the AAU while implementing a process so that the priorities of civil litigation are addressed.**

Civil Litigation

I agree. Consideration was given to maintaining some operational aspects with the AAU. However, further to the creation and staffing of a dedicated civil Agent Appointment Coordinator in April 2003, since the writing of the report, there is no area of civil agent operations remaining under the line responsibility of the AAU.

Now housed with the AAU since the April 2003 merger, LCSS continues to provide services with respect to civil agent accounts under the functional direction of the LPMU. These

services include the processing of Justice paid accounts, recording of all other civil agent expenditures into IFMS, maintenance of civil account records, and, the reporting on all financial aspects of agent activities.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component, and ultimately allow for the development of system controls in the account verification process, more extensive tracking of agent activities and associated costs, and the production of more comprehensive reports. The continued requirement for the function currently provided by LCSS (AAU) with respect to civil agent accounts as described above, will be revisited as the implementation of renewed practices and supporting structures are identified and rolled out.

FPS

I agree that this option should be considered. With the possible merger of LCSS and AAU, the current functions of LCSS with respect to civil accounts would be maintained. Civil Litigation may decide in the future to undertake account verification and systems activities specific to its area of expertise. We agree with the audit team that such a decision is premature at this point.

Resources

Within the past four years legal agent expenditures have increased 42 percent from \$38.5 million in 1997–98 to \$54.8 million in 2000–01. The AAU and LCSS have been able to secure the required resources to meet this increase in expenditures. We were informed that additional funding had been assigned to the AAU and that it has requested additional positions—a Supervisors' Coordinator was added in January 2002 and we were informed that the AAU has obtained approval for the addition of a FI-3 position classification. As discussed in the previous section, the merging of the units is still being discussed so we will not comment on whether additional resources are required under the new organization.

The auditors note that the LCSS may need additional assistance while it is operating under two verification systems (the old account verification system and the new statistical case sampling verification system—discussed under “Management Reporting and Forecasting, FPS Forecasting”) and participating in the definition and implementation of iCase (discussed in detail in the next section, “Computer Systems”). If additional assistance is provided, then more time would be available to problem solve, train new staff, and provide back-up to the Systems Manager. These functions may be covered with existing resources if the LCSS merges with the

AAU. With the implementation of iCase, much of the LCSS's manual work should be reduced. LCSS staff activity is regularly analyzed and reported. Notably, LCSS jobs take several months to learn. In February 2000, the section was significantly impacted when it lost three staff, each with about 20 years of experience. We were informed that the LCSS requested an additional position to maintain its regular service level.

We found that the AAU and LCSS had no formal and well documented processes for planning and tracking progress against program plans that could be used to assess whether resources are sufficient.

The work of the Systems Manager is very important since he is now the only one with the knowledge to produce reports, which are often required in a hurry. Also, the Systems Manager has a key coordinating role for implementing, training, and supporting the new statistical sampling verification process. A person is needed to back up the Systems Manager.

For the civil agent program, we were informed that the LPMU was assigned one and a half FTE and no operating budget. In addition, most of the time of an employee in the AAU Appointments Coordination Section is dedicated to working on civil agent appointments. In the last few years little progress has been made in improving the civil agent program. As we discuss later, verification activities need improvement but the LPMU also has responsibilities beyond the scope of this audit such as special negotiations, strategies for civil litigation, budgeting matters, and coordinating and training instructing counsel. Improvements are also needed in the analysis of expense information and in defining system requirements. Since the roles and responsibilities for the LPMU are still being defined, it may be too early to decide on resources. We note, however, that more resources may be needed.

IF the LCSS and AAU are not merged, there is still a requirement to provide backup for a system manager.

Recommendations and Management Response

- 6. If the LCSS and AAU are merged, it is recommended that the AAU Executive Director ensure that there is proper backup for all key staff and, in particular, for the Systems Manager.**

I agree. The role of the Systems Manager is a particularly sensitive role, requiring backup and to a large extent, many of the reports generated by the Systems Manager can now be generated by other staff within the AAU.

- 7. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, ensure that as the civil agent program and role of the LPMU are defined, an analysis of required resources should be completed and resources obtained if required.**

I agree. In fact, since the audit report was written, two new positions have been created within the LPMU. One FTE was added to assist the Agent Appointment Coordinator in September 2002 and a dedicated civil Agent Appointment Coordinator position was created and filled in April 2003.

In the context of a departmental review of the way in which we manage the delivery of legal services, options are being studied to ensure that the principles of transparency, accountability and value are reflected in the selection, appointment and management of legal agent activities. Changes are expected in the areas of operations, financial management and policy. The development of an implementation plan and supporting business case are in progress to move forward with renewed practices, supporting structures and systems.

The defined role of the LPMU will be revised and resources sought as the implementation of renewed practices and supporting structures and systems are identified and rolled out. *The Litigation Practice Management Centre Mandate* will be modified in a timely fashion to reflect resulting changes.

2.3 Planning

We reviewed unit yearly plans for the AAU, LCSS, LPMU, and agent supervisor units, paying particular attention to whether activities to improve the account verification, related activities, and the management control framework were included in plans; we also measured progress against plans.

Over the years the National Agent Affairs Program has conducted several studies and prepared draft documents that include objectives and plans for the program components (FPS and civil). Also, an Action Plan was prepared by the AAU listing activities from April 2000 to March 2002. This plan did not contain important activities that were conducted in the year 2001/02. It should be prepared yearly. Most planned activities within the scope of this audit mentioned in the documents we reviewed have not been implemented. During the preparation of this report, the AAU provided us with a vision and a plan for 2002–03 concerning FPS agents.

Nevertheless, significant improvements have been made in the last six months for the verification of FPS accounts and the AAU informed us they will continue to improve processes. Also, both the LCSS and AAU are participating in the development of the iCase system, which should allow for improved verification of FPS agent accounts. In addition, the AAU is planning to develop benchmarks to facilitate cost comparisons between agents and regions, and to improve due diligence in financial obligations. Agent supervisors will participate in this project.

Agent supervisors prepared comprehensive plans for their respective offices for 2001–02, which were reviewed by the AAU and approved by regional management. We reviewed a sample of these plans and found them to be very comprehensive. However, the plans are overly ambitious and all planned activities were not funded. We noted that only one unit mentioned account verification since this was the only unit that was verifying accounts when the plans were prepared. The plans indicate that cost control appears to be a small part of the agent supervision unit responsibilities given all other work of supervising agents.

We were informed that when the AAU was created the priority was to organize the control of the Drug Prosecution Fund and there was little effort in improving the civil agent processes. Recently, the LPMU has improved the civil agent appointment process.

Right now a few cases have been assigned based on flat and other alternate fee arrangements. Since September 2001, the LPMU has been improving control on estimating civil case costs and has been trying to increase the number of cases to which agents are appointed based on alternate fee arrangements. The LPMU informed us that a small percentage of cases have the largest costs and that flat fees would simplify the verification process and decrease costs. Also, a study of the management of civil agents was under way that should produce information to assist in the preparation of strategic and yearly plans. The LPMU also commissioned two surveys in 2001. One was a survey of instructing counsel and the other a survey of managers involved or responsible for dealing with civil agents. These studies identified several issues, which are in line with our findings and which we were told the LPMU wants to address. These issues include:

- improving policies, procedures, manuals, account verification, and the information available on the Intranet;
- studying the establishment of supervision units;
- processing accounts faster;
- improving accountability;
- reporting on the full cost of cases.

The yearly business plans of Accounting Operations outlines main activities for the LCSS. It has been involved in improving the verification of FPS accounts. Assisted by IMB, the Systems Manager has produced several new reports that allow better control and forecasting of FPS costs. LCSS and the System manager are participating on the development of iCase but this important activity was not in the plan.

As we will discuss in the section “Management Reporting and Forecasting,” reporting against plans has not started.

Until it is known whether the LCSS is merged with the AAU, attention should be given to ensuring that yearly plans are prepared in coordination with the AAU and LPMU.

Recommendations and Management Response

- 8. It is recommended that the AAU Executive Director update plans for the AAU each year and ensure plans are distributed to the LPMU, Accounting Services, agent supervision units, and senior management.**

I agree that annual plans of the AAU should continue to be distributed within the FPS. It is recognized that the AAU has a current and formally defined mandate within the FPS. The Agent Supervision Units (ASUs) are involved in defining the strategic direction of the AAU and it's priorities. The AAU-HQ has a supporting role to play vis-à-vis ASUs. Annual plans and priorities have been prepared for many years. They have been communicated to ASUs and senior management.

- 9. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, implement a process for preparing yearly program plans for civil agents and ensure plans are distributed to the AAU, instructing counsel, and senior management.**

I agree. Workplans relating to the Civil Agent Program will be prepared annually by the LPMU and distributed to stakeholders.

In the context of the civil agent program renewal, the program plan for Fiscal Year 2004-05 will include the implementation of renewed practices and resourcing of supporting structures.

2.4 Management Reporting and Forecasting

Management Reporting

The AAU and the Finance, Administration and Programs Directorate jointly issue a quarterly cost report to senior management. This report includes payments to agents for FPS and civil litigation. It shows costs in various tables and graphs such as by year, portfolio, region, nature of work, and by client.

There is no report relating costs to work performed, such as cost and time spent per case, and stratification of costs by range and number of cases. Three out of four agent supervisors we interviewed mentioned that they would like better information on cost drivers. We noted that the AAU generates additional ad hoc reports to help manage the costs of the Drug Prosecution Fund and justify increased expenses.

The AAU and LPMU do not have the means to produce information for proper cost management and cost reduction. There are no reports relating costs to time spent by agents, case profiles, and typical activities. Also, it has not been possible to do comparisons across cases and jurisdictions. The inability to easily analyze costs and do comparisons limits opportunities to decrease costs. This has an impact on agent costs paid by the Department and its clients. The main limitation here is the computer system, as will be discussed later in the section “Integrated Finance and Materiel System (IFMS).” Nevertheless, the AAU does carry out manual analysis of FPS costs by litigation code set for a sample of cases. One such analysis identified concerns regarding agent billing practices. Recommendations were made, which included using a reduced litigation code set, monitoring and following up with consistently high-billing agents, appointing more cost-effective agents, developing procedures for identifying and monitoring lengthy or complex cases, and defining and implementing a performance framework to measure progress in managing costs.

Other than reports for agent costs, regular reports for the National Agent Affairs Program have not yet been produced. Eventually, these types of reports could include information such as yearly objectives, progress against plans, performance measures, issues, statistics of agent appointments and resignations, number of accounts and amounts reduced, number of cases with enriched fees, number of cases open and closed, and time to process accounts.

The AAU prepares and issues a monthly financial report related to the Drug Prosecution Fund, which it uses to forecast costs. The report shows expenses and a forecast of budgets covering the

AAU, agent supervisors, and agent costs. Some agent supervisors we interviewed said the report was useful; others told us they did not review it.

For Canada Student Loans litigation, the HRDC system is collecting the kind of information that the Department should have for all its cases. The system is capable of producing many reports, which the HRDC legal services unit are beginning to use. However, the design of this system was not intended to meet requirements for the processing of all departmental agent accounts.

Recommendations and Management Response

10. It is recommended that the AAU Executive Director issue management reports on the status of the FPS agent program. Such reporting could include but is not limited to:

- **progress against plans,**
- **performance measures,**
- **issues,**
- **statistics of agent appointments and resignations,**
- **number of accounts and amounts reduced,**
- **number of cases with enriched fees,**
- **number of cases open and closed,**
- **time taken to process accounts.**

I agree. Management reports should be issued on the status of the FPS agent program. The financial status is of primary concern considering the size of the drug prosecution fund deficit. The following management reports are currently issued by Headquarters to regional offices:

- Agent Supervision Units' Salary and O&M Financial Status
- Legal Agent Fees & Disbursements Financial Status
- Cases Billed on by Legal Agents – Year over Year
- Legal Agent expenditures by firm – Year over Year
- Average Case Cost – Year over Year
- Cases assigned – current month

These reports are very useful for the ASUs for the management of agents in the regions and for financial and management reporting at HQ for senior management and Treasury Board.

In order to report on progress against plans or performance measures, it is necessary to have a goal or a benchmark for planning and comparison purposes. The program needs to

continue the research to develop these tools. The AAU has developed and communicated specific systems requirements for iCase to better position the Program in terms of its capacity to analyze data and provide meaningful analysis to senior management.

11. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, ensure that management reports are prepared and issued on the status of the civil agent program. Such reporting could include but is not limited to:

- **progress against plans,**
- **performance measures,**
- **issues,**
- **statistics of agent appointments and resignations,**
- **number of accounts and amounts reduced,**
- **number of cases with enriched fees,**
- **number of cases open and closed,**
- **time taken to process accounts.**

I agree. Manual procedures have been implemented and tools developed to maintain information pertaining to agent appointments and facilitate statistical reporting.

It is recognized as well that, in order to report on progress against plans or performance measures, it is necessary to have a benchmark for planning and an evaluation framework for comparison purposes. In response to this need, work is underway with Justice Canada's Evaluation Division for the development of a results-based management and accountability framework (RMAF) to guide the civil agent program.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. This would ultimately allow for the development of system controls, and, more extensive tracking of agent activities and associated costs, which would support the development of benchmarks and the production of more comprehensive reports. The continued requirement for manual procedures and tools to facilitate the provision of statistical information needed to compile and issue management reports on the status of the civil agent program, will be revisited as the implementation of renewed practices and supporting structures and systems are identified and rolled out.

FPS Forecasting

In this section, we describe forecasting difficulties which further support the need for a new verification system, which is discussed later in this report.

The AAU is responsible for forecasting drug prosecution costs. The Drug Prosecution Fund covers agent fees and disbursements, some of the cost of the agent supervision units, the costs of the AAU, and the expenses (not the salary) of internal counsel conducting drug prosecutions. Currently, forecasting of agent fees and expenses is limited by insufficient historical data to permit the forecasting of case costs. Also, the Department has little control over the amount of drug prosecutions that must be undertaken. In fact, agent costs are more a variable rather than a fixed cost (depending on work volume, which is not known at the time of forecasting). The AAU informed us that it has tried to increase local accountability by preparing and discussing regional forecasts. However, in our four interviews, only one agent supervisor assumed responsibility for managing the assigned drug prosecutions expenditures budget. The other interviewees said that they have little information to forecast, limit, or reduce costs.

Another complexity in the AAU's ability to forecast costs is the number of cases assigned to in-house counsel, which can vary widely. This has an impact on the Department's requirements for agents.

At present there are two reporting systems for expenses. The LCSS reporting from IFMS is based on the dates upon which the work was performed. Expenditure reporting from IFMS is also available based on the dates when the payments were made. The latter figures are the ones used for financial forecasts.

Due to the unpredictability of yearly prosecution requirements, the AAU forecast for 2001–02 had three significant revisions during the year. AAU staff informed us that by September each year its forecasts are reasonably accurate (within 4%) and on time for funding purposes. In our view, there is a need to have a better, earlier forecast to avoid potential funding problems. The AAU uses FPS historical expenditures and social conditions statistics from Statistics Canada for forecasting. Better forecasting will require better information, which is expected to be derived from iCase and increased links with enforcement agencies.

iCase may be able to provide information on costs earlier since it will have data on the agents' logged time before they submit an invoice. In fact, the system at the HRDC legal services unit allows the staff to view agents' time before they invoice the department. However, we were informed that an arrangement may be made with agents (other than those serving HRDC) such

that their time will not be available to the Department until they bill. Cost accruals could be of some value for forecasting, but they would be incomplete because it is unlikely that all agents will use iCase.

Public Accounts Reconciliation

Each year the agent costs records from the LCSS cost reports are compared to the information reported in the Public Accounts (published in September). The Public Accounts obtains expenditure totals of all the payments made by the government. The 2000–01 comparison shows a large difference for agent expenditures, with the Public Accounts total being \$89 million, or \$37 million higher than the LCSS reported total of \$52 million. This had increased from a \$24 million difference in 1999–00. For 2000–01, out of the total \$37 million difference, the Department of Justice had the biggest difference, which was \$8 million.

The primary difference is in civil litigation costs. The Department of Justice manages the costs of the cases it supervises but it cannot effectively manage total costs for which it is responsible if it does not have accurate information on these costs. There are various reasons for the differences between LCSS reported costs and Public Accounts reported costs.

- The LCSS is not receiving a copy of all the civil litigation accounts. To this end, the LCSS and LPMU have reminded those affected that all copies of civil accounts should be sent to the LCSS.
- Departments, including the Department of Justice, do not always contract for legal services under the legal agent process and the accounts are coded to professional services.
- Departments contract for legal advice that does not need to be conducted by appointed legal agents and then incorrectly charge the costs to the financial codes used for agent work.
- Departments make errors in financial coding, such as coding court awards with the same codes as payments to agents.
- There are different dates for the expenditures used as a basis for the reports. The LCSS reports for agent costs are produced based on the date when the agents performed the work. The Public Accounts report is produced based on the dates the agents were paid.
- Some cases are not billed until months and years after the year end. We obtained a memo from a counsel, Civil Law and Corporate Management Sector, dated November 23, 1994, that states that accounts must be paid if received before limitation periods expire, which two provinces consider to be within three years. The memo does not mention the limitation periods for other provinces. For other legal work (e.g. legal aid), provincial legal aid acts specify a billing time limit.

- There are errors in LCSS records. For example, we found one duplicate record for a \$30,853.30 disbursement, but there was no duplicate payment. However, the duplicate record remained on the IFMS file and was therefore included on the LCSS report. The extent of the errors is unknown. LCSS informed us that the verification of payment reports has been increased to detect these and other errors.

Recommendations and Management Response

12. It is recommended that the AAU Executive Director:

- a) Ensure that a note is placed on the LCSS quarterly expense report for agent costs indicating that there are limitations with the accuracy of the report.**

I agree. However, it should be noted that the quarterly report is used by management as a measure of trends and performance indicators. The numbers in the report are in thousands, so the level of accuracy has a much lower threshold. The part of the report, which does drill down to the dollar level, will be modified so that it too reflects expenditures in the thousands.

- b) Explore measures that can be undertaken to encourage agents to bill at least at year-end.**

I agree. Agents should be encouraged to bill, at least at year-end. The Terms & Conditions of Appointment request a monthly bill from agents if they have \$500 or more due. Submitting a bill for payment is incentive enough for some agents but not for all agents. Late invoicing practices have been monitored by the LCSS who have relayed the information to Agent Supervisors for follow-up. This is a labour intensive practice. A regular year-end memorandum is issued advising all agents of the necessity of submitting invoices in a timely manner.

13. It is recommended that the Assistant Deputy Attorney General, Civil Litigation:

- a) Ensure that requests are made to other departments that continue to have significant differences in legal agent account reporting to use the proper financial codes regarding legal agent costs.**

I agree. Active steps are being taken to educate stakeholders as to the Civil Agent Program. In March 2003 a communication was distributed to departmental senior

management, advising as to the policies, procedures and environment surrounding legal agent appointments.

As well, in response to the identified problems associated to the inappropriate use of financial coding as a source for discrepancies, a consultation process has been initiated by Justice Corporate with TBS and PWGSC to identify where the problems lie with a view to implementing standards for the recording of legal services.

In the context of civil agent program renewal, options for change are being studied which would support and facilitate more control over the recording and reporting of agent expenditures within Justice systems as well as in the financial systems maintained by concerned departments and agencies. The development of an implementation plan and supporting business case are in progress to move forward with renewed practices and supporting structures and systems. The requirements regarding follow-up in this area, will be revisited as the program renewal evolves.

b) Consider asking agents to include a total-to-date in civil accounts so that missing accounts are noticed.

I agree that the inclusion of the total-to-date costs for services rendered by a legal agent for a particular matter would support the monitoring and controlling of costs per case and identifying where expenditure records maintained in IFMS are incomplete or lacking. A revised Request for Payment (Civil) form has been drafted to include a data field to capture a running total of costs. The implementation of this form is scheduled for June 2004.

In the context of civil agent program renewal, options are being considered which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. This would ultimately allow for the development of system controls, and, more extensive tracking of agent activities and associated costs, which would support the development of benchmarks and the production of more comprehensive reports. The development of policies, procedures and tools supporting the processing and monitoring of legal agent accounts will be revisited as the implementation of renewed processes and supporting structures and systems are identified and rolled out.

14. It is recommended that the Accounting Services Manager develop reports to identify invalid records in the database and take appropriate measures to ensure the integrity of the data.

We agree. We have recently worked with the IFMS team to develop a number of new reports, which will assist in identifying the magnitude of the error, and to help in the correction of invalid data. We have also asked for a number of warning messages to be added to critical IFMS data fields to mitigate the potential entry of incorrect data.

2.5 Procedures and Training for Departmental Staff

Staff involved with agent affairs work do not have clear, up-to-date procedures for daily operations or specific tasks. The processes for appointments and verification of accounts are complex and, at present, are covered in various notes, documents, reports, the FPS and civil litigation deskbooks, and in the attachments to the agent's letter of appointment. As well, deskbooks do not specifically cover procedures for verification of accounts, agent appointments, and related processes. A manual or manuals are required that can be used as a reference by instructing counsel, agent supervisors, and the LCSS and AAU staff. The AAU indicated that the development of a manual had started but that it would not be ready for several months. New FPS terms and conditions have been drafted. The LPMU indicated they would like to update documentation related to agents.

One of the agent supervision units where we conducted interviews has developed a manual for its agents' activities. The HRDC legal services unit has also developed a comprehensive manual that is available online to internal staff and agents. Only one of the four agent supervisors that we interviewed was reviewing accounts at the time of the audit and he indicated that a checklist or manual would be useful. Most instructing counsel we interviewed indicated that account verification instructions would be useful. Given that staff change and can be absent, manuals are useful for providing new staff with consistent and comprehensive information on proper procedures, recording corporate memory, and capturing new or revised practices and procedures.

For agent supervisors, training has been provided through teleconferences and video conferences. Also, there has been training in Ottawa for the new procedures that we discuss in the section "Reasonableness Verification."

At the time of this audit, instructing counsel had received no training on account verification. They told us that they verify accounts by using common sense, or talking to colleagues. The lack

of training has resulted in inconsistent practices. Instructing counsel indicated they are interested in receiving training and a checklist to assist in their verifications.

The LPMU's June 2001 survey of managers and instructing counsel showed that nine percent were not aware of the existence of the AAU and 25 percent of instructing counsel said they received poor support from the AAU. The few agent supervisors and instructing counsel who we interviewed and who had phoned the AAU and LPMU for information indicated that they had received prompt answers.

Recommendations and Management Response

15. It is recommended that the AAU Executive Director ensure that manuals are completed that cover procedures for appointment and verification of FPS accounts. Manuals should be posted on the Intranet.

I agree. The Appointment Office has drafted a Procedures Manual that should be made available on the Intranet in 2003. Procedures governing the verification of FPS accounts are a "work in progress". Basic account verification procedures are documented. A pilot project verifying the reasonableness of high-risk cases (cases over \$5000) exists in Toronto and Ottawa-Gatineau, but it is too early to say exactly how this pilot will contribute to the review of accounts. Current post-payment procedures are documented and available to all those involved.

16. It is recommended that the AAU Executive Director ensure that the role of the AAU is promoted at departmental conferences and in notices.

I agree. Although agent supervision has been an activity within the Department of Justice for a long time, it has become a separate program since the Drug Prosecution Fund was transferred to Justice from Health Canada in 1996. Members of the AAU are present in conferences and meetings where FPS agent activities are being discussed.

17. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, ensure that manuals are completed that cover the verification of civil litigation accounts. Manuals should be posted on the Intranet.

I agree. Direction on the account verification process and payment of accounts is included in the revised Civil Litigation Deskbook chapter on agents, which has been updated to reflect evolved practices. To support a more consistent and rigorous approach to the account

verification process, national standards and supporting checklists and guidelines will be developed and documented for implementation by September 2004.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. This would ultimately allow for the development of system controls, and, more extensive tracking of agent activities and associated costs, which would support the development of benchmarks and the production of more comprehensive reports. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from the program renewal. All relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

18. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, ensure that the role of the LPMU is promoted at departmental conferences and in notices.

I agree. The role of the LPMU is currently documented on the Civil Litigation Branch redesigned JUSnet site. Overviews have also been provided at a number of departmental functions such as the April 2002 Civil Litigation Conference as well as various departmental breakfast and lunch meetings of senior management. It's mandate, roles and responsibilities has been formally introduced through *The Litigation Practice Management Centre Mandate* document on the Civil Litigation Branch JUSnet site as well as in the revised Civil Litigation Deskbook agent chapter.

Active steps have been taken to educate stakeholders as to the civil agent program. In March 2003 a communication was distributed to departmental senior management, advising as to the policies, procedures and environment surrounding legal agent appointments, and, the role played by the LPMU in the overall management of the program.

The Litigation Practice Management Centre mandate and Civil Litigation deskbook agent chapter will be refined to reflect the changes resulting from the program renewal reflected in recommendation # 2.

2.6 Security

E-mail and fax are often used for communications regarding agent appointments and questions or answers about accounts. Some of this information could be sensitive and require special, secure transmission means. The proper practices for communicating this information have not been documented.

In July 2000, a threat and risk assessment was prepared for a proposed concept for a legal agent time and billing system. In 2002, it was decided that the iCase system would be used for processing legal agents accounts. The threat and risk assessment served its purpose at the time but now a complete statement of sensitivity outlining and justifying security requirements for iCase is required.

The project manager of the iCase system development project told us that the iCase project would prepare a threat and risk assessment.

The HRDC Legal Services Unit, a branch of the Department of Justice co-located with HRDC, is using secure e-mail to communicate with its agents. This unit uses a sophisticated system called the Student Loan Legal Information Management System (SLLIMS, since renamed CLASMate), which allows agents to provide and view information by using the Internet. No statement of sensitivity or threat and risk assessment has been prepared for their system.

Recommendations and Management Response

19. It is recommended that the AAU Executive Director and the Assistant Deputy Attorney General, Civil Litigation:

- a) Ensure that a statement of sensitivity outlining and justifying security requirements for the processing of legal agent accounts is completed for the iCase system.**

We agree. A statement of sensitivity outlining and justifying security requirements for the processing of legal agent accounts is being completed by the iCase development team in consultation with various stakeholders, including the Civil and FPS agent affairs programs.

- b) Ensure that, based on the specifications of this statement and if necessary, more secure procedures are implemented.**

We agree. Based on a Protected B designation more secure procedures may be required. Discussions with Justice Canada's Security Division have already taken place and options are under consideration. Security requirements will be further defined as the implementation of renewed practices and supporting structures are identified and rolled out, in the context of program renewal for both the Civil and FPS agent affairs programs.

- c) Ensure that the statement of sensitivity is used as the basis for the preparation of the threat and risk assessment planned by the iCase project manager.**

We agree. Work is underway by the iCase Project Manager for the completion of a new Threat and Risk assessment (TRA), which will include a statement of sensitivity. It is expected that the (TRA) will be completed by September 2004.

- 20. It is recommended that the Team Leader-Senior Counsel, Department of Collections, Litigation and Advisory Services, HRDC legal services unit, ensure that a statement of sensitivity and a threat and risk assessment is completed for CLASMate.**

We agree that a more comprehensive threat and risk assessment should be undertaken to ensure that the many measures we have in place are adequate.

3. COMPUTER SYSTEMS

Until 1997, LCSS was using the Crown Agents Reporting System (CARS) to verify FPS accounts and to record civil litigation accounts. In 1997, LCSS converted to the IFMS system and stopped updating CARS. There were several reasons for converting to IFMS:

- AAU intended to supplement IFMS with the Justice Electronic Forms (JEF) system,
- CARS was not Year 2000 compliant,
- the hardware for CARS was old,
- the maintenance of CARS was cumbersome.

In 1999, the AAU and LCSS conducted a pilot of the JEF system for FPS cases in Ontario and British Columbia. In January 2000, further deployment and development of JEF was suspended for various reasons. However, about 40 agents are still using a reduced version of JEF as an interim measure until iCase is implemented.

3.1 Integrated Financial and Materiel System (IFMS)

The IFMS is a financial system and one of its modules processes payments to vendors. The IFMS is not a case management system and does not provide all the functionality of the CARS. The LCSS has tried different ways of using the IFMS to record required information:

- Cost was recorded against individual lawyers working as agents, but this was stopped because it generated too much work for LCSS.
- The litigation code set was used at one time and then dropped because it generated too many entries.
- Due to a work backlog, accounts were posted against the vendor and not against the case.

LCSS has obtained improvements for IFMS ad hoc reports for cost analysis, but the system is still short of meeting requirements for account verification and reporting. IFMS system staff supporting the LCSS have been helpful and changes have been made to assist the LCSS.

At present, the LCSS has to do more manual verification than with CARS and it takes more time to enter less data. For example, the IFMS does not record the time spent or the cost incurred by lawyers. Instead, costs are recorded against the law firm and no time is recorded. Therefore, many computer edits (validation of data by the computer system) are not in place, such as:

- providing warning messages when the number of hours recorded is more than 10 per day,
- providing warning messages when two different agents (or one agent with two numbers) are on the same case,
- checking the rate of the lawyers,
- checking the number of lawyers working on a case,
- providing warning messages when one lawyer charges for time in two locations on the same date,
- finding duplicate billings (such as duplicate accounts or separate accounts billing for the same activities).

There are other aspects of the IFMS that result in inefficiencies for LCSS staff.

- Some data fields are shorter than needed.
- Searches are limited because information is not on record.
- The IFMS will not accept entries when there is a small difference on the total of the accounts.
- The data entry screen only allows one billing number at a time, but an agent account for drug litigation work can have multiple billing numbers.
- If an error is found in a large account after it has been approved by the verification clerk, the account then has to be re-entered.
- The account approval process requires approving each page for each account.
- IFMS allows for the entry of city and provinces but LCSS requires the entry of court names.
- When creating a case record in the system, if the wrong profit centre is entered it cannot be corrected and a new case has to be created.
- The IFMS does not help to identify cases that get assigned more than one number.

Each regional office has a financial cost centre for FPS drug expenses, yet the LCSS has to manually enter it for each account. Searching for information on the IFMS is also difficult. The LCSS enters some information as text, but the IFMS does not search text fields. Staff must therefore manually review paper files to obtain required information. For example, account reductions could be calculated, but because the original amount is entered in a text field there is no efficient way to use the IFMS to calculate these reductions.

The IFMS is not linked with other systems. For example, the Canada Student Loans and the tobacco litigation cost information is obtained on spreadsheets for management reporting. Also, the information on agent appointments is not in a form that can be easily used by all those who need it. Several staff in various locations keep lists of appointed agents in various formats, with resulting duplication. We concur with the AAU that the solution here is not to improve the IFMS but to ensure that the new iCase system meets requirements for account verification and reporting.

In the short term, there are IFMS-related procedures that should be improved. Several people have complete authority to enter the name of legal firms, accounts, approve accounts, and change names of legal firms in the IFMS. There are no compensatory controls such as separation of duties, and additional controls for vendor changes and setting up new vendors. The LCSS is responsible for data integrity but other staff in the Corporate Services Branch and IMB technical staff also have full access. Roles and responsibilities are not documented. At the beginning of April, during the writing of this report, we were informed that the AAU implemented an additional check whereby a financial officer in the AAU looks at payments in total for each agent before the payments are processed. This is an improvement, but better checks are required. For example, a report of certain changes to agent records could be reviewed by those processing the appointments in the AAU and the IFMS has the capability to report on audit trails and user activity. Currently, no such checks are being conducted to prevent errors or the possibility of impropriety.

Recommendations and Management Response

21. It is recommended that the Accounting Services Manager ensure that the LCSS, in conjunction with IFMS support staff and IMB staff, studies what reports can be produced to decrease the possibility of error or impropriety.

We agree. However, we note that the potential for error or impropriety lies with a lack of segregation of duties. Therefore we will first explore with the AAP the potential for removing from LCSS staff the ability to create new firms and individuals into IFMS. If these explorations are not successful we will work with the IFMS team to develop a report, which details changes to the master agent vendor data.

3.2 Justice Electronic Forms (JEF) System

The JEF system was tried as a pilot in 1999 with the intention that agents would enter data directly into it. The system was tried in British Columbia and Ontario. The system worked as intended, except difficulties were encountered with the secure transmission of information. The pilot was considered completed in early 2000. However, about 40 agents still use JEF to record their time and prepare their accounts, which they print and mail to the LCSS or an enforcement officer (primarily policing officials who are authorized to call agents). This is an interim system that will be replaced by iCase. There are problems with these JEF-generated accounts. Activities for a case can show on different accounts creating more work for data entry and review. If agent activities are split in different accounts it is practically impossible to manually check for court appearances by two lawyers. JEF had incorrectly created two accounts with the same tasks. Duplicates with a different JEF number are hard to catch. The AAU has requested that improvements be made to JEF to address these issues.

Also, JEF uses a litigation code set different than the one used by departmental counsel and the one used by the Canada Student Loans system. In addition, agents using JEF are not required to submit disbursement invoices with their accounts and this results in different rules for different agents and is not in compliance with the terms and conditions for agent appointments. In view of the fact that a new system is being developed (iCase) that will replace JEF, the audit team agrees with the current approach that minimum changes should be made to the JEF system.

Recommendations and Management Response

22. It is recommended that the AAU Executive Director ensure that JEF software errors that create duplicate billings are corrected.

I agree. JEF release version 4.0 corrected software errors that created duplicate billings.

3.3 iCase System

The iCase project team is developing the iCase system to replace the current departmental Caseview and Timekeeping systems. There is also a commitment that iCase will include functionalities to process information for legal agents. iCase will have a national database for Caseview and Timekeeping, which are now processed in local databases for each region and legal services unit. The executive sponsor of iCase is the Senior Regional Director, Quebec Regional Office. The Project Authority/Business Manager is the National Business Manager. In

addition, there are other project managers, a development manager, and working groups. The iCase management team includes the AAU Executive Director.

We reviewed the iCase Project Charter, Version 1.1, December 2001, which confirms that the system scope includes the processing of agent accounts. We also reviewed the iCase Project Plan, January 2002, which confirmed a pilot implementation that will include agent account processing in 2002.

The AAU and LCSS expect that FPS agents will use the iCase system to enter billing information. The LPMU expected that the system will process civil agent accounts, but it was unclear to us in what degree the system will be used since most civil agents are ad hoc and may not learn to use the system for just one case.

A consultant's report called *Feasibility Study: Incorporating Crown Agent Time, Billing and Case Management Functionality Within iCase, Final Draft, October 2000*, was prepared for the AAU. The study concluded that despite concerns raised with respect to the time frame for implementation of the iCase project, incorporating agent time, billing, and case management functionality within iCase was the preferred option. The study presented a preliminary costing of up to \$420,000 in development and implementation costs. We find that this amount appears low and we could not ascertain whether training and security component costs were included in this amount. In comparison, the cost to develop SLLIMS at HRDC Legal Services was around \$1 million. At the time the study was commissioned, the AAU was responsible for all agents. One paragraph in the study says, "There is the possibility that iCase's scope will be expanded to include time, billing and case management functionality related to civil litigation." We found that civil agent requirements may be different and they will need to be defined.

iCase requirements for processing agent accounts are additional over those requirements being developed for internal cases. The proper definition of requirements for agents is extremely important since much of the verification can be automated and the proper information could be used to very effectively manage agent costs. We noted that the requirements for the system are being addressed by referring to the JEF system, various available documents and the results of discussions and meetings. A consolidated, approved document that captures all iCase system requirements as it pertains to agents has not been created. However, the AAU was satisfied with the progress being made for iCase to meet the initial user requirements for the processing of legal agent accounts. The Phase I of iCase development will not address all requirements for the processing of legal agent accounts and there will be competing priorities for funding and resources for the later development of iCase. Therefore, a formal commitment is required that iCase will meet all agreed requirements for the processing of legal agent accounts.

The new system will be designed to allow agents to use the Internet to connect to the iCase system. The iCase development manager informed us that the security infrastructure for the system is the responsibility of the separate IMB Connectivity Project. However, the Project Charter and progress reports of the latter project do not mention that secure connectivity for agents is in its scope. The requirements for such secure connectivity will need to define what level of security is required and whether digital signatures will be required. Standing agents are hired for several cases and it is intended that they will use iCase. It is less certain how ad hoc agents for both FPS and civil cases will be connected to iCase and how they will be trained, since many would make use of iCase for only one case.

The use of a litigation code set is important for iCase. Currently, different code sets are used by departmental lawyers, agents for the HRDC legal services unit, and in JEF. The appropriate code set will have to be determined as the system is being developed. A standard code set is important in the management of agent costs since constant or harmonized codes facilitate benchmarking for comparison and projection purposes. They are also important since a high degree of automated verification can be designed around the use of standard times for certain activities such as is done with the HRDC system. It might be that different litigation code sets will be used for agents and departmental staff, but they should be related to permit corporate reporting and comparisons of departmental staff with agent work.

The iCase development project manager told us that a threat and risk assessment would be prepared for iCase. This should consider the statement of sensitivity for agent information processing that we mentioned in the “Security” section (see Recommendation 19.c.).

Recommendations and Management Response

23. It is recommended that the AAU Executive Director obtain a formal commitment from appropriate systems development departmental managers to the effect that the user requirements for legal agents account processing will be implemented.

I agree. The iCase requirements for processing agent accounts are based on experience gleaned from Justice Electronic Forms development, various consultants’ documents, multiple discussions and other internal documents that represent a mutual—LCSS, AAU, IMB—understanding of how to move agent requirements into iCase. The JEF software itself forms the basis of our system requirements. This information has been provided to the iCase development team since the beginning.

A formal commitment or project charter with IMB to implement these requirements is considered necessary. A sequential approach fully implementing the user requirements has been discussed. It should be formalized in fiscal year 2003-2004.

24. It is recommended that the AAU Executive Director ensure that, with the development of iCase, a secure connectivity infrastructure is also developed that meets security requirements for the processing of agent information.

I agree. A secure connectivity infrastructure is required. The AAU will rely upon the iCase Development Manager for advice.

25. It is recommended that the AAU Executive Director ensure that a practical decision be reached regarding the use of a litigation code set by agents.

I agree. The litigation code set underpins the AAU's management control framework by defining what information needs to be collected concerning a case. Ideally, the agents would use the same code set as in-house counsel to ensure a consistent reporting format to clients and concerned agencies. A litigation code set has been implemented for agents since 1997. It is based on national standards in the private sector and was found to be very useful in the recently implemented post payment review of accounts. Discussions are ongoing with FPS In-house to standardize the reporting on activities for all agents of the Attorney General (in-house and external resources).

26. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, ensure that clarification is obtained on whether iCase will be used for civil agents and, if required, ensure that user requirements for the processing of civil agents are defined.

I agree. Data requirements were defined to the iCase development team and incorporated into the system's design to facilitate the tracking of civil agent appointment information as well as related expenditures. National standards and business rules, developed to guide departmental personnel in the integration of agent information into iCase, appear in the user manual provided further to the iCase rollout across the Department, which commenced in September 2003.

Given the ad hoc nature of civil agent appointments and the large number of agents, the feasibility of providing civil legal agents with connectivity to iCase's electronic billing component, has remained under consideration. As such, the development of a litigation code set for use by civil legal agents has remained pending as well.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. This would ultimately allow for the development of system controls, and, more extensive tracking of agent activities and associated costs, which would support the development of benchmarks and the production of more comprehensive reports. The national standards and business rules outlined in the iCase manual, as well as the development of a litigation code set for civil legal agents, will be revisited as the implementation of renewed practices and supporting structures and systems are identified and rolled out.

27. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, ensure that the LPMU participates in the definition of the litigation code set regarding requirements for civil agents.

I agree. Given the ad hoc nature of civil agent appointments and the large number of agents, the feasibility of providing civil legal agents with connectivity to the iCase electronic billing component, has remained under consideration. As such, the development of a litigation code set for use by civil legal agents has remained pending as well.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. This would ultimately allow for the development of system controls, and, more extensive tracking of agent activities and associated costs, which would support the development of benchmarks and the production of more comprehensive reports. The development of a litigation code set for use by civil legal agents will be revisited as the implementation of renewed practices and supporting structures and systems are identified and rolled out.

3.4 Local Systems

Several regional offices and other departmental offices maintain local systems to record agents and costs for FPS and the civil agent program. Some use Caseview, others have local Microsoft Access databases or spreadsheets. Many do not maintain records of costs-to-date. The AAU and LCSS also use small systems or manual records to keep track of appointments and known legal firms to consider when appointing agents. Information such as counsel's expertise, cases by

agent, hourly rates, and counsel by district is kept in various forms. iCase will provide the opportunity to eliminate duplication of records.

The most elaborate, unique system currently in use is the HRDC Legal services Unit's CLASMate, a system for recording the information of agents who are working to collect Canada Student Loans payments. The audit team is of the opinion that the AAU and LCSS should have this kind of system. CLASMate requires agents to enter their time and disbursement costs online, by connecting to the system through the Internet. Secure connections using public key encryption are in place. The HRDC legal services unit can view the agents' time and disbursements at any time and agent accounts are electronically submitted. When the legal services unit receives the accounts, verification clerks review them. An activity code set defines the standard times for activities and agents are required to provide an explanation when there are differences. The system has an excellent ability to produce reports for analysis. As we discussed under the "Security" section, this system requires a threat and risk assessment and a statement of sensitivity.

The knowledge gained in implementing and using the CLASMate system should be used when designing iCase. We were advised that CLASMate was to be expanded to process litigation for collection of Employment Insurance Canada Pension Plan and Old Age Security overpayments. CLASMate is designed for the specific requirements of collection files and may not meet the processing requirements for all legal agents. However, it is a good example of a successfully functioning system that was designed to meet specific program and operational needs.

A pilot project is in place in Alberta with in-house counsel doing the work and using CLASMate to help decide whether to bring out-sourced litigation work in-house.

We were informed that LPMU initiated a pilot project in the Vancouver Regional Office using Caseview to enter agent case information, and using the information in discussions with clients. Data entered include costs, names of instructing counsel, and other risk-related information.

Recommendations and Management Response

28. It is recommended that the AAU Executive Director, in coordination with the Assistant Deputy Attorney General, Civil Litigation, ensure that the system requirements document for iCase considers local requirements for information on cases and agents.

FPS

I agree. The Department of Justice has developed iCase as a means of managing the provision of all Government of Canada provided legal services, including Legal Agents. HRDC's system called CLASMate is used to manage Legal Agents with respect to Canada Student Loans payments and possibly other HRDC programs. Considerations should be given to integrate some or all of its functionalities into iCase. It should be noted that the iCase system may not respond to all local information needs and there may be a continuing need to support some local dedicated systems.

Civil Litigation

I agree. The Department of Justice has developed iCase as a national system to respond to national case management, timekeeping, billing, document management and reporting requirements pertaining to both in-house counsel and legal agents. Personnel from the FPS and civil sides of operations were actively involved in defining user requirements pertaining to legal agents. While iCase cannot and will not meet all local information needs, enhancements may be made to incorporate some local requirements. Given this, the need to support local systems and practices that meet specific and operational needs, may continue to exist to some degree.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. This would ultimately allow for the development of system controls, and, more extensive tracking of agent activities and associated costs, which would support the development of benchmarks and the production of more comprehensive reports. System requirements will be revisited as the implementation of renewed practices and supporting structures are identified and rolled out and existing documents will be revised accordingly to reflect resulting changes.

4. APPOINTMENTS PROCESS

Part of the process of verifying accounts is to ensure that agents have been properly appointed and that they submit accounts according to the terms of the appointment. The Minister's Office, and in some cases the AAU according to agreements with the Minister, selects agents and agent supervisors or instructing counsel sign letters of appointment. The activity dealing with authorities to appoint agents is reviewed in more detail in the section "Signing Authorities."

In this section we comment on the various types of appointments. Readers should refer to Table 3 to help place the activities of each unit into context when reading this and the following sections of this report. The table is not intended to present all activities of the units listed.

Table 3: Current Activities for Appointing Agents and Processing Agent Accounts										
Activity	AS	AAU	Enforcement Agencies	LCSS	Agents	Minister's Office	LPMU	IC	Client Departments	CSL
Requests appointment	X							X		X
Appointment	Consulted	Processes all (4), coordinates FPS				Selects	Coordinates civil	Consulted		Consulted
Appointment letter	X							X		X
Assign case to standing agents	X		FPS					X		X
Provide case/billing nos.		(1)		(2)				X		X
Prepares invoice					X					
1 st Review	Some		Non-drug	FPS— drugs				X		X
Approval	X			FPS				X		X
Payment				FPS—drugs					FPS non-drug, civil	
Case audit	FPS			FPS						
Recording				Civil (3)						

(1) Civil and FPS ad hoc agents

(2) Standing agents, FPS

(3) Advises appointments coordinator if estimate is exceeded

(4) A coordinator works on civil appointments and receives functional direction from LPMU.

AAU—Agent Affairs Unit

AS—Agent Supervisors (FPS)

CSL—Canada Student Loans

FPS—Federal Prosecutions Services

IC— Instructing Counsel

LPMU—Litigation Practices Management Group,

OGD—Other Government Departments

4.1 Federal Prosecution Services and Civil Agent Appointments

Appointment Process

Agent supervisors and instructing counsel make requests for appointments to the Minister's Office, and often suggest candidates. The AAU has two assistants who process the appointments and refer them to the Minister's Office when required. When agent rates are above certain thresholds, senior managers follow a documented approval process.

FPS appointment letters are issued by the agent supervisors. Most FPS cases are assigned to standing agents.

The AAU assistant processing civil appointments receives direction from the LPMU. Civil appointment letters are issued by the instructing counsel and sometimes signed by managers, directors, or the Minister.

Agents sign a letter of acceptance and send it back to the regional office or instructing counsel, who makes a copy for the AAU. Most civil cases are assigned to ad hoc agents.

During the preparation of this report we were informed that in the last six months a new procedure has been implemented: when an agent other than the suggested candidate is to be appointed, the agent supervisor or instructing counsel is consulted prior to appointment.

The appointment process is subject to very short deadlines. Appointments are often urgent due to scheduled court appearance dates and the process is affected by the time differences across Canada.

- In four FPS interviews, two coordinators or supervisors mentioned that appointment delays were a problem. One office mentioned that a few agents are frequently used on an ad hoc basis and they should be appointed as standing agents.
- In 15 interviews of civil instructing counsel or local coordinators, 10 mentioned that delays are a problem in varying degrees. One needed appointments in seven days when the target standard service by AAU is ten days. Another interviewee said that, occasionally, appointments are needed in two days. One office mentioned that they requested that two additional standing agents be appointed but there was no response from the AAU. Nevertheless, the office used the agents as standing agents.

Staff requesting appointments said that lately the delays have decreased, but more needs to be done. The LPMU commented that sometimes regions are late in sending requests (they have received requests that were dated several days earlier). Often to meet court or litigation deadlines, ad hoc agents for both the FPS and civil assignments start work before they are officially appointed.

During the audit, the AAU had two employees working on agent appointments, with a third employee returning from leave in the spring of 2002. Other staff from the AAU or LPMU assist the unit when required.

Lists of agents are maintained but no formal statistics are kept and analyzed on new appointments, terminations, and resignations. Therefore, it was difficult for the audit team to assess the reasons for reported delays. Recommendations 10 and 11, in the section “Management Reporting and Forecasting” recommend that management reports should include appointment process activity and performance.

We obtained inconsistent information on whether appointment and acceptance letters should be in AAU files. Old documentation and the information we received from staff working with the files stipulated that copies of these letters should be with the AAU. We were informed by the Head-Counsel LPMU and the Executive Director, AAU that the primary records of the letters are with the agent supervisors or instructing counsel. We conducted a test to see whether the appointment letters were in AAU’s appointment files and found that a significant portion of the letters are not on file, including the appointment letters of FPS standing agents. From what we have seen of the appointment process, it is our opinion that the appointments were made and the letters are missing in headquarters’ files. We were informed that it might be possible to obtain copies of the letters from those who issued them (agent supervisors or instructing counsel) and that appointment record keeping has improved in the last six months. In our opinion, the records kept by the AAU should be complete.

The AAU had set aside a substantial number of appointment letters to follow up on missing information, however, employees had no time to actually obtain the information. We were informed that for standing agents, the AAU asks the appropriate law society to provide a letter on whether the lawyer is in good standing. We found no such letters filed in the sample of files we reviewed. When agents receive an appointment letter they are asked to sign an acceptance page and return it to the Department. We found that often these letters are not returned to the AAU. The AAU and LPMU mentioned that letters missing from their files should be with agent supervisors or instructing counsel.

Information pertaining to the Minister's selection of an agent is not well documented in many appointment files. The Minister's Office usually notifies the AAU of an agent selection by phone or e-mail. There is often no documentation on who in the Minister's Office made the appointment, who in the AAU received the selection notice, and how the authorization was received (by phone or email).

The authority of departmental staff to sign appointment letters is discussed in the section "Signing Authorities."

Recommendations and Management Response

29. It is recommended that the AAU Executive Director, in consultation with the LPMU Head, ensure that reports referred to in the section "Management Reporting and Forecasting" include statistics on agent appointments, and that this information is used to decide whether further steps are required to decrease the time required to complete the appointment process.

FPS

I agree. Further steps that involve the analysis of agent appointment statistics will assist in reducing agent appointment time. The cost of generating the information monthly, quarterly, etc., must be assessed with the need.

Civil Litigation

I agree. The LPMU has succeeded in reducing operational delays associated to the agent appointment process. Since the audit report was written, two additional positions have been created within the LPMU, new procedures and measures have been introduced, and, active steps have been taken to educate stakeholders as to the Civil Agent Program, the policies, procedures and environment surrounding legal agent appointments.

As indicated in our response to recommendation # 11, manual procedures have been implemented and tools developed to maintain information pertaining to agent appointments and facilitate statistical reporting.

In the context of civil agent program renewal, options for change are being studied which include a more extensive integration of civil legal agent appointment information into iCase and ultimately the ability to produce more comprehensive reports as to agent appointments and associated activities. The continued requirement for manual procedures and tools to facilitate the provision of statistical information pertaining to the appointment process will be

revisited as the implementation of renewed practices and supporting structures and systems are identified and rolled out.

- 30. It is recommended that the AAU Executive Director and the Assistant Deputy Attorney General, Civil Litigation, ensure that proper procedures requiring that letters be kept in AAU files are documented in manuals and that procedures are adhered to.**

FPS

I agree. AAU files should contain the appropriate documentation. The Appointment Office will put in place procedures that will ensure that original signatures of acceptance for standing agent appointments are retained on agent files maintained by the Appointment office. For ad-hoc appointments, it is a generally accepted procedure to file within the Appointment Office either the original document or a copy. Please note that original signatures of acceptance of the revised Terms and Conditions of Employment have been requested for filing purposes within the Appointment Office.

Civil Litigation

I agree. Requirements for recording of original signatures of acceptance for standing and ad hoc civil agent appointments are documented in the revised Civil Litigation Deskbook agent chapter and conveyed as well through the standard notification message sent to all requestors seeking appointment approval. In accordance with civil operations, it is agreed that original signatures of acceptance relating to standing agent appointments will be retained in LPMU files by the Agent Appointment Coordination Office. Original signatures of acceptance relating to ad hoc appointments will remain on the subject file under the responsibility of the instructing office.

In the context of civil agent program renewal, options are being studied to ensure that the principles of transparency and accountability are reflected in the selection, appointment and management of legal agent activities. Changes are expected in the areas of operations, financial management and policy. The development of an implementation plan and supporting business case are in progress to move forward with renewed practices and supporting structures and systems. The development of more extensive monitoring procedures to ensure receipt and appropriate maintenance of such records will be revisited as the program renewal evolves. The Civil Litigation Deskbook chapter on agents will be revised in a timely fashion to reflect resulting changes.

31. It is recommended that the AAU Executive Director and the Assistant Deputy Attorney General, Civil Litigation, ensure that file information reflect who from the Minister's Office communicated the selection of an agent, who received the selection notice, and on what date.

FPS

I agree. A basic record supporting the agent appointment process should indicate who communicated the selection to the Appointment Office as well as who received the communication and when. As a minimum, a note to file should be prepared by the Appointment Coordinator to document the appointment of an agent. This is currently being done in most instances but we agree it should be done in all instances.

Civil Litigation

I agree. All requests for appointment approval are submitted to the Agent Appointment Coordinator for appropriate processing. Standard procedures and a dedicated contact in Minister's Office are in place, and, practices have been refined by the LPMU to ensure appropriate approvals are recorded on files.

In the context of civil agent program renewal, options are being studied to ensure that the principles of transparency and accountability are reflected in the selection, appointment and management of legal agent activities. Changes are expected in the areas of operations, financial management and policy. The development of an implementation plan and supporting business case are in progress to move forward with renewed practices and supporting structures and systems. Procedures as well as roles and responsibilities in the processing of agent appointments will be revisited and appropriately documented and communicated as the program renewal evolves.

Appointment Documents

Agents are appointed with a letter issued by the Department. The letter has several attachments such as:

- terms and conditions,
- billing instructions,
- allowances for meals and travel,
- workplace equity policy,
- forms to be used for accounts,

- legal guidelines,
- memorandum of instructions,
- conflict of interest guidelines.

These documents frequently have no date, contain some duplicate information, and do not specify which ones have precedence, and do not reflect current practices. The AAU, in consultation with the agent supervisors, have revised the terms and conditions of appointment for FPS agents. This revised document was expected to be approved in spring 2002. The LPMU has informed us that it is aware of the importance of updating these documents, but that due to limited resources it cannot give priority to this.

When considering an agent for appointment for FPS, the AAU has to consult with various public references to verify the agent's number of years at the bar. However, this is time consuming and not all agents are listed in public references. If the agent was asked to certify the years at the bar, the AAU could limit its verification to searching the Canadian Law List book.

Recommendations and Management Response

32. It is recommended that the AAU Executive Director and the LPMU Head update appointment documents and make them available on the Intranet in electronic form.

FPS

I agree. We are in the process of updating the appointment package for FPS standing and ad-hoc appointments. The documents that are used for internal processing will be posted on the FPSW Justice Intranet site.

Civil Litigation

I agree. Standard letters of appointment for both standing and ad hoc legal agents in civil matters are available along with terms and conditions documents which establish the relationship between the Department of Justice and legal agents.

In the context of civil agent program renewal, options are being studied to ensure that the principles of transparency and accountability are reflected in the selection, appointment and management of legal agent activities. Changes are expected in the areas of operations, financial management and policy. Requirements regarding appointment documentation, including terms and conditions relevant to appointments, will be revisited and appropriately addressed, as the implementation of renewed practices and supporting structures and systems are identified and rolled out.

33. It is recommended that the AAU Executive Director consider asking FPS agents to certify their number of years at the bar in their acceptance letter.

I agree this could be considered. Asking for agent certification of their number of years at the bar may be a consideration because it is cost effective. However, we still would have to verify the accuracy of the information provided by the agents using the Canadian Law List book.

4.2 Federal Prosecution Services and Civil Agent Program—Rates

The Department needs qualified and experienced agents to conduct cases when departmental lawyers are unavailable, do not have the required expertise, or are not near the location of a trial. At present, agents are used when it is not possible or desirable to use in-house counsel.

The current rates for FPS and civil agents have been in existence for 10 years and are perceived to be low. We were told that as a consequence, junior lawyers are often assigned to cases, which require more supervisory time from departmental lawyers. Also, instructing counsel mentioned that they often must train junior lawyers who do not have the proper experience. In taxing (checking) accounts received from agents, some agent supervisors and instructing counsel informed us that they tend to focus on the overall reasonableness of the dollar value of the account, rather than the actual number of hours claimed. The Department should adopt a consistent approach to the verification of accounts.

We were told in interviews that agent dissatisfaction with the hourly rates is counterbalanced by the predictability of work volume and payment, the prestige of the role, and the training opportunities the role provides to junior counsel.

Agent supervisors and instructing counsel expressed a perception that agents are resigning because of low rates. However, the AAU informed us that resignations are few. A May 2001 draft report called “Review of Hourly Rates and Related Remuneration Approaches for Legal Agents,” mentioned that resignations are not due solely to low rates. It states that in the inclusive period of 1998–2000, only 29 standing agents had resigned. There were no figures on the number of legal firms who declined ad hoc work.

The AAU and LPMU have studied the rates and decided not to increase rates at this time. The AAU tried block fees (similar to flat fees) on a pilot basis for FPS prosecutions and found the

arrangement more expensive than hourly charges, so the practice was discontinued. We were told that the LPMU is identifying high value cases and applying alternate fee arrangements for these. It is hoped that this will decrease the significance of rates.

Recommendations and Management Response

34. It is recommended that the AAU Executive Director and the Assistant Deputy Attorney General, Civil Litigation, ensure that counsel reviewing accounts are provided with clear instructions that state that verification should be rigorous and amounts claimed reduced if warranted.

FPS

I agree. Case cost estimates are fundamental to managing agent fees & disbursements. For FPS cases, the AAU plans to develop estimates based on benchmarking that will be integral to the account review process and financial forecasting. The iCase system, when operational, will provide the data needed to achieve this goal.

Civil Litigation

I agree. The revised Civil Litigation Deskbook Chapter on agents provides Justice counsel with direction on the account verification and payment processes. To support a more consistent and rigorous approach to the account verification process, national standards and supporting checklists and guidelines will be developed and documented for implementation by September 2004.

In the context of civil agent program renewal, options are being considered which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. This would ultimately allow for the development of system controls, and, more extensive tracking of agent activities and associated costs, which would support the development of benchmarks and the production of more comprehensive reports. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from the program renewal. All relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

4.3 Appointment and Case Assignment—FPS

Appointment

The appointment approval procedure does offer an opportunity for estimating case costs, but cost estimates are not currently used. We were informed that it is not practical to estimate costs because a prosecutor has little control over costs and must react to the actions of the defence and to enforcement findings. However, there are some cases that, because of complexity, are likely to be very costly. It would be useful for the Department to estimate the cost of these cases. The AAU is implementing a system where cases will be reviewed after they exceed a certain cost. We are of the view that preparing cost estimates for certain cases would be helpful for containing costs. At present, there are no guidelines on when to obtain cost estimates and how to follow up if estimates are exceeded.

The procedures for terminating agents who are found to be unqualified or who are underperforming are outlined in the FPS deskbook. The AAU informed us that as part of its new audit process, agents who make excessive errors in their billing will be recommended for removal. Agent supervisors were unaware that there are procedures in the FPS deskbook for terminating agents.

Recommendations and Management Response

35. It is recommended that the AAU Executive Director provide guidelines on the types of cases that require cost estimates, who is responsible for making the estimates, and processes to follow when the estimates are exceeded.

I agree. This is a long-term project that will underpin the Agent Affairs Program's management control framework. Again, we are dependant on the iCase system for the management information needed to accomplish this goal.

36. It is recommended that the AAU Executive Director ensure that agent supervisors are made aware of the procedures for terminating agents.

I agree. The Minister has both the authority to appoint and terminate agents. In the past, based on a recommendation from ASUs, certain agents have been terminated. It may be more desirable to have a national understanding of (1) an unacceptable quality of agent-provided legal service and (2) an unacceptable cost of an agent-provided legal service that

would lead toward a recommendation for termination. It should be noted that the procedures are fully described in the FPS Deskbook. This is an issue of awareness.

Case Assignment

Initially, cases are usually verbally assigned by agent supervisors to ad hoc agents, by enforcement officers working for enforcement agencies (e.g. the police), and by agent supervisors to standing agents. When FPS standing agents are assigned a case they complete a Case Assignment Report Form (CARF), which they send to the LCSS. The LCSS then records the case on the IFMS. The system produces a daily list of cases by agent. The LCSS faxes daily to each agent a list of new case assignments. The ad hoc agent's appointment letter serves the function of the CARF. Before working on a case, agents are supposed to receive a case and billing number: this occurs in most instances. For ad hoc standing agents, the case and billing numbers are assigned by the AAU and for standing agents, case and billing numbers are assigned by the LCSS.

Currently, a variety of CARF formats are used. We checked a sample of CARFs and found that most were missing some information. Although we were informed that not all information being requested is essential, we found that in a few instances essential information was missing. Also, when the CARFs were filed separately (not with the corresponding case files), a large number of CARFs were missing. This problem should be solved by the new filing system that is being put in place, which will require that each CARF is filed with its corresponding case. Also, at the time of the audit the CARF format was being revised so that there will be only one format.

CARFs document the assignment of cases to standing agents, but these CARFs are not signed by the agent or by the LCSS. Since the appointment of standing agents is similar to call-ups against standing offers, there should be a signed document assigning the case. This could be met by signing the lists of CARFs currently faxed to agents. The signed lists will need appropriate wording to be converted into a formal case assignment document and the wording should make reference to the individual CARFs.

For JEF cases, the CARF lists various lawyers' names but does not specify the name of the lead counsel.

At present, LCSS hard-copy blank forms and documents are sent to agents by mail or by fax. Agents had requested to receive CARFs and other departmental forms in electronic format.

Case and billing numbers are not always included in appointment letters for FPS and civil ad hoc assignments. We were informed that this omission may happen with rush appointments and that the situation had improved in the last few months and will further improve when a new person is added to the section responsible for coordinating appointments. We were also informed that sometimes the regional office had the billing numbers but did not include them in the appointment letters.

Recommendations and Management Response

37. It is recommended that the Executive Director, AAU in consultation with the Accounting Services Manager ensure that CARFs require only essential information and that all of the necessary information be entered on the form.

We agree. Recently the AAU has developed new guidelines for the preparation of accounts and CARFs. These guidelines are in the new Terms and Conditions.

38. It is recommended that the Accounting Services Manager clarify that LCSS has the authority and ensure that the LCSS signs a document assigning the cases to ad hoc FPS agents.

We agree. This issue has been identified as one of the items to be addressed in the department's current review of signing authorities.

39. It is recommended that the Accounting Services Manager ensure that CARFs and other documents provided to agents are provided in electronic format, preferably in more than one text processing format so that they can use different software such as Microsoft Word, WordPerfect, and rich text format.

We agree. The AAU, in consultation with the LCSS, has recently completed the preparation of all required agent forms in a number of different formats. The regional Agent Supervisors have been provided with these templates for transmission to any agent who may request them.

40. It is recommended that the AAU Executive Director ensure that appointment letters are reviewed periodically to identify those that do not include case and billing numbers and that corrective steps are taken wherever necessary.

I agree. All ad hoc appointments should make reference to a case and billing number. This is an area that could be addressed in a standard letter to ad hoc agents.

We make no recommendations for JEF because that system will be replaced by iCase.

4.4 Appointment and Case Assignment—Civil Agent Program

Since most civil agents are ad hoc, there is only one process for appointing agents and assigning the case.

As part of the appointment process initial cost estimates are made in various manners, sometimes by the instructing counsel and sometimes by a paralegal. There are no guidelines on how to prepare estimates. At the beginning of the case a paralegal or instructing counsel provides a cost estimate to the AAU, which in turn provides it to the LCSS.

The LPMU has drafted a form for departmental staff to use when requesting agent appointments and it is in trial use. This form should resolve the issues with inconsistent information gathering.

We were told in interviews that there were instances of agents being appointed who did not have the qualifications required for the cases. Instructing counsel would like to have guidelines on when and how to request the termination of an appointment. We were told of one situation where the instructing counsel requested the termination of an agent's assignment. The termination was successful, but the instructing counsel had no guidelines on the termination process and it required a considerable amount of his time.

In one of our interviews we learned that an instructing counsel was appointing agents without following the AAU process. The LPMU unit informed us that they suspect that various legal service units are not following the proper process when hiring agents. The LPMU will need to take action to correct the problem.

Case and billing numbers are not being provided on a timely basis to regional offices. We understand this is because staff was insufficient and that there was a problem with some AAU staff not having access to IFMS and that this will be corrected.

Recommendations and Management Response

41. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, ensure that:

- a) Guidelines are provided on who should prepare cost estimates and how these are to be prepared.**

I agree. In accordance with current practices and procedures, information pertaining to projected costs must be provided with respect to all requests for appointment approval. As enhanced data collection and integrity become available, benchmarking will be developed where applicable, as will guidelines to provide an additional level of guidance and support in ensuring a more consistent, efficient and effective approach to preparing cost projections. It is recognized, however, that there will remain an element of difficulty in establishing such standards given the diverse nature of civil work.

In the context of civil agent program renewal, options for change are being considered which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. This would ultimately allow for the development of the analytical and comparative information required to support benchmarking by providing for the development of system controls, implementation of a standard litigation code set, more extensive tracking of agent activities and associated costs, and, production of more comprehensive reports. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, benchmarking as well as national standards and guidelines for estimating costs will be developed. The Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from the program renewal and all relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

- b) The current draft form for requesting agent assignments is finalized and used.**

I agree. The use of the electronic Civil Legal Agent Ad Hoc Appointment Approval form (CLAAF) was widely implemented in August 2002. This form, as well as the corresponding completion instructions may be accessed on the Civil Litigation JUSnet site and downloaded on a user's desktop as a template.

In the context of civil agent program renewal, options are being studied to ensure that the principles of transparency and accountability are reflected in the selection, appointment and management of legal agent activities. Changes are expected in the areas of operations, financial management and policy. Requirements regarding appointment approval documentation and supporting tools, will be revisited and appropriately addressed, as the implementation of renewed practices and supporting structures and systems are identified and rolled out.

c) Procedures are provided for the termination of agents.

I agree. Legal agents are advised by way of their letter of appointment, that appointments are at the pleasure of the Minister of Justice and Attorney General of Canada, and, as such may be terminated at any time. The revised Civil Litigation Deskbook Chapter on agents provides direction to Justice counsel as to the requirement to monitor and manage legal agent activities following appointment, and the action and reporting required where concerns are raised regarding an agent's conduct and/or the requirement for termination.

In the context of civil agent program renewal, options are being studied to ensure that the principles of transparency and accountability are reflected in the selection, appointment and management of legal agent activities. Changes are expected in the areas of operations, financial management and policy. Requirements regarding the development of criteria and more detailed procedures for termination will be revisited as the implementation of renewed practices and supporting structures and systems are identified and rolled out. The Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect resulting changes.

d) Efforts are continued to reduce the numbers of agents starting work with only verbal appointment.

I agree. The revised Civil Litigation Deskbook agent chapter provides clear direction as to the policies and procedures pertaining to the appointment of legal agents, the requirement for prior approval of the Minister in each case, and, the requirement for instructing counsel to confirm all agent appointments in writing. Active steps have been taken to communicate these policies and procedures to stakeholders and to educate them as to the need to provide sufficient lead-time to allow for appropriate follow-up action and the appointment and remuneration approval processes. As well, the additional FTEs added to the appointment coordinator's office since the conclusion of the auditor's research (i.e., one FTE added to assist the Agent Appointment Coordinator in September

2002 and a dedicated civil Agent Appointment Coordinator position created and filled in April 2003), has contributed towards reducing the operational delays associated with the appointment process.

In the context of civil agent program renewal, options are being studied to ensure that the principles of transparency and accountability are reflected in the selection, appointment and management of legal agent activities. Changes are expected in the areas of operations, financial management and policy. The development of an implementation plan and supporting business case are in progress to move forward with renewed practices and supporting structures and systems. The policies and procedures pertaining to the appointment of legal agents will be revisited, revised and appropriately documented and communicated as the program renewal evolves. The Civil Litigation Deskbook Chapter on Agents will be revised in a timely fashion to reflect resulting changes.

e) Case and billing numbers are provided in time for the instructing counsel to include them in the appointment letters.

I agree. The practice adopted by the Agent Appointment Coordinator's office is to provide case and billing numbers to requestors along with appointment approval. Due to system processes outside the reach of the LPMU and circumstances associated with some files, delays may occur in generating case and billing numbers. Where, in order to meet operational demands, a letter of appointment must be sent prior to receiving the case and billing numbers, it is the responsibility of the instructing counsel to ensure that the relevant numbers are conveyed to the agent under separate cover.

The additional FTEs added to the appointment coordinator's office since the conclusion of the auditor's research (i.e., one FTE added to assist the Agent Appointment Coordinator in September 2002 and a dedicated civil agent appointment coordinator position created and filled in April 2003), has contributed towards reducing the operational delays associated with the appointment process.

In the context of civil agent program renewal, options are being studied to ensure that the principles of transparency and accountability are reflected in the selection, appointment and management of legal agent activities. Changes are expected in the areas of operations, financial management and policy. Policies and procedures pertaining to the appointment of legal agents will be revisited and revised as required, in accordance with the identification and roll out of renewed practices and supporting structures and systems.

The Civil Litigation Deskbook chapter on agents will be revised in a timely fashion to reflect all resulting changes.

5. PROCESSING OF ACCOUNTS

In this section we review the existing processes for the verification of FPS and civil accounts. The new verification process that was being introduced to address the shortcomings of the existing checking of reasonableness of FPS accounts is addressed separately in the section “Reasonableness Verification.”

5.1 FPS Cases

Verification of FPS Accounts

The LCSS began implementing a new account verification process in September 2001 and the results of its review are presented in the section “Reasonableness Verification.” However, because the old system’s processes will still be used in the new system, the audit team assessed the existing verification process and the results are presented in this section.

Under the existing system, most cases are assigned to an agent by enforcement officers and some by agent supervisors. The agents send a copy of their respective accounts to those enforcement officers or agent supervisors who assigned the case. (As is discussed later in this section, most accounts are not seen by agent supervisors.) They conduct a preliminary review of the account and sign off that the activities shown on the bill are valid according to their knowledge of the case. Some accounts that were sent to the agent supervisors were returned with a “no knowledge” stamp. The new system will require a more rigorous check and the “no knowledge” response should decrease. When reviewing a sample of accounts, we found that some non-drug accounts had not been signed by the enforcement officers or agent supervisors. The LCSS informed us that it is likely that copies were made and that the signed copy was sent to the client.

Agents are supposed to certify the accounts they submit to LCSS. They use a form provided by LCSS, which has appropriate certification wording as to the accuracy of the charges. Sometimes, there is no certification form on file or a certification statement is provided by the agent in a separate document with wording that is less complete than that found in the LCSS form.

To meet payment deadlines with the current staffing levels, the LCSS does a basic pre-payment taxing of all accounts and a more rigorous taxing of about 30 percent of the accounts. The latter are selected based on the LCSS staff's anecdotal knowledge of which agents' billings are more likely to be inaccurate. The LCSS has chosen different agents at different times for the rigorous check. As we discussed in the section "Integrated Financial and Materiel System (IFMS)," most checks are manual and it is impractical to do thorough checks. An account can include charges for various cases and when the account is verified, each case history of accounts is not reviewed.

The reasonableness of the costs being charged is rarely checked under this process. "Reasonableness" is something that can only be checked/assessed by someone who is knowledgeable about agents' work. In one office we visited, the agent supervisor reviewed all accounts. In other offices, agent supervisors did a non-systematic, limited verification of accounts (not of cases) on an exceptional basis (LCSS sent them accounts that were obviously out of the norm).

Under the now discarded CARS (and prior to 1999), the LCSS was reducing 10 percent of the total FPS agent expenses through verification of accounts. Now, most reductions occur on disbursements. These are easier to check than the hours charged by the agent. The IFMS does not track the amounts that have been reduced, but staff estimated that fewer costs are being reduced with the IFMS than with the CARS. Some of the shortcomings of the IFMS are discussed in the section "Integrated Financial and Materiel System (IFMS)." It is expected that iCase will do better automated verification than the IFMS.

Agent supervisors do not see all the accounts they are responsible for, which includes accounts assigned by enforcement officers, but only those accounts for cases they assign. Generally, agent supervisors we interviewed said that not seeing the accounts makes it difficult to supervise agents. Later in this report, under "List of New Cases," we explain how this problem is beginning to be addressed.

The Department's receipt of disbursement invoices is inconsistent. Agents are required to submit accounts for disbursements over \$10. The \$10 limit may be too low and a new limit should be set up that permits a reasonable checking of the accounts.

We found that in 25 percent of the cases we sampled disbursement invoices were missing or required expense details were not shown on the accounts. This process for reviewing disbursements is being changed and is further discussed in the section "Reasonableness Verification." We found one example of a cheque written in trust by an agent to a police officer

for \$2,692.37, which did not have the required approvals on file. Also, the audit team is of the view that writing a cheque to a police account is more appropriate than writing a cheque to an individual officer in trust. Guidelines are required for the issuing and verification of these cheques. We also noted that agents using JEF are not required to submit disbursement invoices for drug accounts, although some do so.

Very few accounts include the name of the students or paralegals for whom time is charged. Accounts usually just indicate that a “paralegal” or “student” logged time on the case. Also, JEF does not allow the entry of names of students and paralegals.

When entering accounts into the IFMS, some accounts are reduced or increased for very small amounts, such as under \$1. We were informed that this adjustment is, in part, forced by the IFMS since at the end of entering account data the IFMS shows the total and if different from the account, data must be re-entered, which is very time consuming.

Actions taken when reviewing the account are documented on the account or verification checklists. However, frequently the notes do not sufficiently explain the action taken or are not clearly written. The name of the approving LCSS officer is well documented but the names of LCSS staff who made the notes or processed the accounts are frequently unclear. This does not meet the requirements of TBS’s Account Verification Policy, section 4.g, which states that “the account verification process must provide for auditable evidence of verification including identifying the various individuals who performed the verification.”

The checklist used for verification does not list all the situations to be checked. Additional lists of situations to be checked are noted in other documents. Experienced staff may know where to look for these lists, but new staff may not.

As we discussed in the section “Local Systems,” the HRDC legal services unit has a system that allows them to do 100 percent verification of all accounts. The audit team is of the opinion that the LCSS needs a similar system to ensure an in-depth and efficient verification of FPS accounts. The current computer systems do not allow for this level of verification, but the iCase system that is under development could meet these needs.

Agents supervised by the Vancouver Regional Office were sending accounts directly to LCSS without the signature of the appropriate enforcement officer or agent supervisor. This was to be corrected.

For FPS standing agents, enforcement officers assign most cases to the agents and the agents inform the LCSS of the assignment. Enforcement officers have a list of appointed agents. Since April 2000, the LCSS started a process to verify that cases were indeed assigned by enforcement officers. A list with a random sample of new cases is sent to the relevant enforcement officers, accompanied by a letter asking them to verify the list and send it back to LCSS. This is an added control to verify that new cases are valid. We were informed that an error had never been found in the cases sent by agents to the LCSS. During the audit we suggested that a goal should be defined for a statistical sampling, that all cases selected in the sample should be accounted for so as not to undermine the validity of the sample and that the letter sent to enforcement officers should be improved—it did not adequately explain the importance of the review process. During the preparation of this report we were informed that a goal had been defined to verify assignments with a confidence factor of 99 percent, a maximum anticipated error of 1 percent, and therefore a sample error rate of 1 percent.

We were also informed that enforcement officers are now required to respond by verifying the sample of case assignments and that the letter had been improved.

The IFMS does not track account reductions as addressed previously.

Recommendations and Management Response

42. It is recommended that the Accounting Services Manager ensure that:

- a) All FPS non-drug accounts are signed by the appropriate enforcement officer or agent supervisor.**

We agree. This is a check performed as all non-drug accounts are received. LCSS has taken steps to ensure that copies of the signatures are placed on file.

- b) Accounts are certified by agents with the wording provided by the LCSS.**

We agree. The wording of the agent certification block has been finalized and the new forms have been adjusted to reflect this.

- c) All accounts are consistently verified and disbursement invoices received and checked as required.**

We agree. A basic check for compliance is being done for all accounts. With respect to disbursements all non-drug invoices are required to have proof of disbursement incurred for items over \$10.00, however, the JEF agents were advised that their disbursements were not required for drug accounts, therefore LCSS does not receive or review those. However, when one of these JEF drug files is selected for review, under the new verification process, copies of the disbursements are requested.

- d) The \$10 limit for the disbursement invoices be reviewed and a new limit be considered that permits a reasonable checking of the accounts.**

We agree. The LCSS is working with the AAU to address this limit and to increase it to a more practical level.

- e) Accounts are not changed for small amounts. A reasonable limit for changing the accounts should be set.**

We agree. The requirement to change accounts for less than a dollar is due to rounding differences between the agent's systems and IFMS. The current version of IFMS cannot be changed; however, we are working with them to see if this issue may be addressed in future versions.

- f) Accounts include the name of the students or paralegals for whom time is charged.**

We agree. This change has been implemented and all agents have been asked to comply. Accounts that do not comply will not be processed until the required information has been provided.

- g) Actions taken when reviewing accounts are properly documented and names of staff reviewing the accounts are clearly written.**

We agree. This has been implemented; the name of the LCSS verification clerk will now be clearly identified on the daily case record when changes have been made.

h) A complete account verification checklist is readily available.

We agree. The basic verification check has now been finalized and is being used for all agent accounts.

43. It is recommended that the Accounting Services Manager ensure that user requirements for iCase:

a) Allow for a thorough checking of all the accounts.

We agree. Requirements have been provided by AAU and iCase is being built to allow the regional supervisors the tools to verify the accounts before they approve for payment.

b) Include tracking of account reductions to permit analysis and identification of agents making repeated errors.

We agree. Requirements have been provided by AAU and iCase will require all reductions to be noted, and a tracking report will be developed so that the information can be reviewed.

c) Allow for the entry of the names of students and paralegals.

We agree. Requirements have been provided by AAU and iCase has been built so that the names of all counsel, including students and paralegals, are mandatory.

Note that we make no recommendation for processes that will be changed under the new verification system, which is discussed in the section “Reasonableness Verification.”

Payment

According to government policy, accounts should be paid in 30 days otherwise agents can request to be paid interest. The audit team perceives that under the current verification process it is understandable that the 30-day payment target may not be met.

The LCSS has taken steps to speed up payment of FPS accounts and does manage to process most of these accounts within 30 days. Under the current system, it takes additional time for the accounts to be processed by the enforcement officers or agent supervisors and to issue the cheques. The result is that it often takes 60 days or longer for an agent to receive payment. The

July 6, 2001 issue of the trade publication *Lawyers Weekly* mentioned that the Department of Justice has substantially improved its speed in processing agents' accounts and that bills for drug and fishery prosecutions were paid in 60 to 90 days.

There is an additional step in processing FPS non-drug accounts, with the account being sent to the client department for approval and payment. The LCSS has been identifying those departments that take considerable time to approve and process accounts and is meeting with officials of these departments to accelerate the process. Since government legislation and policies require client departments to pay the amounts recommended by the Department of Justice, an alternative may be for those departments with the largest volume of non-drug accounts to make arrangements for the Department of Justice to pay the account and then recover the amount from the client.

It should be noted that IFMS has limited checks for duplicate payments of drug accounts and there are manual checks for duplicate accounts. In our view, a more effective process using iCase needs to be developed. When LCSS detects duplicate charges from agents or is advised of duplicate payments to agents a note is made on the account but there is no report providing a consolidated list of the duplicate charges and payments.

The process for recovering overpayments was being defined at the time of the audit. The old process was to post the amount recovered to the cost centre and not to the case, which did not correct the cost of the case.

Agents working on non-drug accounts must provide copies of accounts in duplicate, which increases the risk of duplicate payments. To reduce the number of copies (and avoid the risk of duplicate payments) it may be possible to provide clients with whatever billing information they need on the letter requesting them to pay. However, clients would have to agree to receive a copy of only part of the account.

LCSS staff spend considerable time researching agent questions regarding the status of FPS non-drug payments. These are payments issued by other departments and the cheque stub does not always include easy references, such as the case or billing number. Also, some payments are shared by more than one government department resulting in two payments for one account, which can make it difficult for agents to match the payment to the invoice they have submitted.

Recommendations and Management Response

44. It is recommended that the Accounting Services Manager ensure that:

a) User requirements for iCase include faster processing of accounts.

We agree. iCase, because of automation, will at least be faster, due to the elimination of the time it takes for the invoices to be mailed to the LCSS. Further improvements beyond this may only come from a complete review of responsibilities and an examination of staffing levels.

b) FPS non-drug accounts are processed in 10 days or less.

We agree in principle. The LCSS, as part of a unit wide review of duties and staffing requirements, looked at how to improve turn-around time to the clients. The cost/benefit study indicated that the current highly manual process could not be improved markedly without a significant increase in resources. However, the move to iCase, with the future development of a link to IFMS will allow the LCSS to re-examine this issue then, with the hoped for improvement in processing times.

c) Known duplicate accounts and payments are recorded so they can be analyzed and action taken to decrease their incidence.

We agree. The LCSS will look at implementing a log so that these duplicates may be tracked.

d) User requirements for iCase include checks for duplicate charges and the ability to generate reports on possible duplicate charges received from agents.

We agree. Requirements have been provided by AAU and iCase has been developed to mitigate duplicates. Reports are being designed to show potential duplicates and a protocol will be developed for the utilization of these reports.

- e) **The process for recovering overpayments is defined so that recovered amounts are posted to the applicable case.**

We agree in principle. This issue has been examined, and unfortunately current processes within IFMS do not allow this. In order for IFMS to be able to accomplish this task the AAP will first need to define all required benchmarks, develop case standards/cost estimates and then be able to define case durations. These tasks will not be completed in the short term, however, once that process has been accomplished, this issue will be resolved.

- f) **There is an attempt to decrease the number of copies of accounts by providing more information on the letter given to client departments requesting account payment.**

We agree. This will require negotiations between the AAU and the various client departments. If the negotiations are successful the appropriate changes will be investigated and then implemented.

5.2 Civil Cases

Verification of Civil Accounts

Agents submit civil accounts to instructing counsel. For most accounts the calculations and standard rules are checked by an assistant or office coordinator. Instructing counsel then check accounts for reasonableness and signs them. After this, accounts go to the client department or, for departmental cases, to a departmental manager to be signed under section 34 of the *Financial Administration Act*. The LCSS is usually sent a copy of the accounts for recording in the IFMS and for reporting purposes.

While all accounts are reviewed, we found inconsistent verification practices. Accounts are usually not taxed according to all the terms and conditions of the appointment. In most cases, rules respecting receipt of disbursement documentation are not followed. Most instructing counsel and support staff taxing the accounts do not have consolidated checklists or guidelines on how to tax. The taxing rules are documented in various documents and mixed with other matters. Accounts are rarely decreased other than for disbursements and calculation errors. As for FPS, accounts are frequently changed for amounts under five dollars (in one case we saw an account reduced by one cent), which results in additional processing costs higher than the amounts changed.

We were told that there have been cases of blatantly high over-billing and that accounts were reduced accordingly. However, most instructing counsel mentioned that when time charged appeared a little inflated they tended not to question it, or to accept it if they received an explanation. Sometimes instructing counsel are dealing with agents who are senior to them and they are reluctant to question their accounts. Only a small portion of instructing counsel conducts comprehensive reasonableness checks. Instructing counsel informed us they would like to receive explicit direction on actions to take when they think an account is too high.

There is no quality assurance review by a person with a good knowledge of all the rules on how accounts should be taxed. A quality assurance process would assist instructing counsel by providing feedback on how accounts should be reduced, whether all terms and conditions are met, and cost comparisons of different agents for similar activities. This process could be established with the added intention of providing feedback to instructing counsel on their taxing practices. Further, it should be understood that most civil cases are very different and opportunities to make useful comparisons of activities across cases would be limited.

As is the case with FPS, a few accounts are either not certified by the agent, or proper certification wording is not used. The wording provided by the LCSS does not clearly ask agents to certify that the information included in the account is true and accurate and that the case is being conducted in an efficient manner. An example of inadequate wording follows: "I hereby certify that the services herein rendered to were rendered by me or the members of the firm identified herein and this account truly shows the nature of the services rendered, the time occupied, the fees claimed, the disbursements made and all monies received in the matter."

The LPMU informed us that they have decided to use iCase to record detailed account activities. iCase would permit computer analysis and benchmarking of costs but would require more staff to enter the data on a computer system. Such a system would also provide historical data that could be used to challenge what may appear to be inappropriately high billings.

Like FPS agents, not all civil agents bill regularly and promptly at year-end. As with FPS, some agents bill for very low amounts. One instructing counsel suggested that bills should not be produced under \$300 unless it is year-end. As with FPS accounts, civil agents are required to submit accounts for disbursements over \$10. The \$10 limit may be too low and a new limit should be set up that permits a reasonable checking of the accounts.

The meaning of the instructing counsel's signature when approving accounts is not explicit and is not well understood. Instructing counsel usually sign with a stamp that says "examined and

taxed.” Instructing counsel’s approval should be cross-referenced to departmental standards and should indicate that it is part of or in support of the section 34 approval in the *Financial Administration Act*. For more on this topic, see the section “Signing Authorities.”

During the writing of the audit report we were informed that a new process was developed in the fall of 2001, so that when agent invoices exceed initial cost estimates, the LCSS notifies the LPMU, which in turn requests that the instructing counsel provide a new estimate and an explanation. Note that these accounts have already been sent to the client (including the Department’s units) for payment. Currently, there is no requirement for instructing counsel to keep track of case costs-to-date. However, we noticed that some instructing counsel keep track of the total cost of cases to ensure that costs are reasonable, but other instructing counsel do not. A process whereby the instructing counsel or assistants detect that the case estimate has been exceeded would permit the instructing counsel to question the account before it is sent for payment. They could then send a copy of the approved account along with an explanation and a new estimate for LCSS processing and LPMU approval.

The LCSS has been asked by LPMU not to post accounts to IFMS that exceed the estimates, which complicates LCSS procedures. Yet, when LCSS receives a copy of the account the client has already been sent the account for payment. It should also be noted that many estimates were made years ago and are out-of-date because the cases are old. The approval or review of revised estimates by LPMU is a good control measure but it should be achieved with minimum impact on the LCSS process.

We noted that some agents deal directly with the client and that instructing counsel are not involved in supervising the case or approving the accounts.

As noted with FPS accounts, agents cannot identify some payments when the cost is shared between departments. Each department pays a part of the account, but it is hard to reconcile amounts as there is no useful cross-reference number on the cheque. The Department has resolved the problem for its own payments by providing a good reference on the cheque. The LCSS has requested that useful references be provided with the cheque but it cannot impose this request on other departments.

Recommendations and Management Response

45. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, ensure that:

a) Checklists and guidelines are issued to facilitate the checking of accounts.

I agree. Direction on the account verification process is included in the revised Civil Litigation Deskbook Chapter on agents, which has been updated to reflect evolved practices. To support a more consistent and rigorous approach to the account verification process, national standards and supporting checklists and guidelines will be developed and documented for implementation by September 2004.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. This would ultimately allow for the development of system controls, and, more extensive tracking of agent activities and associated costs, which would support the development of benchmarks and the production of more comprehensive reports. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from the program renewal. All relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

b) Terms and conditions are consistently applied and disbursement invoices received are checked as required.

I agree. Direction on the account verification process is included in the revised Civil Litigation Deskbook Chapter on agents, which has been updated to reflect evolved practices. To support a more consistent and rigorous approach to the account verification process, national standards and supporting checklists and guidelines will be developed and documented for implementation by September 2004. Such standards will incorporate the requirement to ensure agent compliance with all terms and conditions of appointment throughout the account verification process.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. This would ultimately allow for the development of system controls, and, more extensive tracking of agent activities and associated costs, which would support the development of benchmarks and the production of more comprehensive reports. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from the program renewal. All relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

- c) The \$10 limit for the disbursement invoices be reviewed and a new limit be considered that permits a reasonable checking of the accounts.**

I agree that consideration should be given to establishing a revised dollar limit for those disbursements requiring supporting documentation as to proof of payment. The current memorandum of instructions, which along with the letter of appointment, forms the basis of the relationship between the agent and the Department of Justice, provides that individually itemized claims exceeding \$10.00 must be supported by proof of payment. These instructions do, however, permit the instructing officer to exercise a degree of flexibility and, on a case-to-case basis, to allow unsupported disbursements. Limits established in the context of account verification will be incorporated into the national standards and supporting system controls, which, as previously referenced, will be developed as program renewal evolves.

- d) Instructions are issued on conditions for reducing accounts.**

I agree that consideration should be given to the establishment of conditions for reducing accounts. Conditions established in the context of account verification will be incorporated into the national standards and supporting system controls, which, as previously referenced, will be developed as program renewal evolves.

- e) A reasonable limit is set up under which changes are not made to accounts.**

I agree that consideration should be given to the establishment of a limit under which changes will not be made to accounts. Limits established in the context of account

verification will be incorporated into the national standards and supporting system controls, which, as previously referenced, will be developed as program renewal evolves.

- f) A quality assurance process is established (which could be on a sampling basis) for reviewing accounts processed by instructing counsel, improving guidelines, and reducing accounts.**

I agree. As previously indicated, direction on the account verification process is included in the revised Civil Litigation Deskbook Chapter on agents which has been updated to reflect evolved practices. To support a more consistent and rigorous approach to the account verification process, national standards and supporting checklists and guidelines will be developed and documented for implementation by September 2004. A quality assurance process will be developed for monitoring compliance with established standards.

As discussed in response to recommendation # 11, it is recognized that in order to report on progress against plans or performance measures, it is necessary to have an evaluation framework for comparison purposes. As such, work is underway with Justice Canada's Evaluation Division for the development of a results-based management and accountability framework (RMAF) to guide the civil agent program.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. This would ultimately allow for the development of system controls and more extensive tracking of agent activities and associated costs, which would support the development of benchmarks and the production of more comprehensive reports. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from the program renewal. All relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

g) Instructing counsel ensure that accounts are certified by agents with wording provided by the Department.

I agree. A prescribed Request for Payment form, which contains the requisite certification statement and signature line, is routinely provided to legal agents under cover of the letter of appointment. The standard letter of appointment as well as the revised Civil Litigation Deskbook chapter on agents provides that, in practice, agents can choose to use their firm's standard invoicing software provided all information required to complete the prescribed form, including the certification statement, is contained in their accounts.

To support a more consistent and rigorous approach to the account verification process, national standards and supporting checklists and guidelines will be developed and documented for implementation by September 2004. Such standards will incorporate the requirement to include the certification statement in all accounts.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, the requirements for tools to support electronic billing and the account verification process will be determined. Established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised accordingly to reflect changes resulting from the program renewal. All relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

h) A recommendation is issued to agents that they do not bill under a certain amount but bill at year-end or at the end of a case regardless of the amount.

I agree that consideration should be given to establishing a standard requirement for agents not to bill under a certain amount unless at year-end or at the end of a case. Civil Legal agents are required to submit accounts for services rendered on a case-by-case basis, in accordance with billing instructions provided in the letter of appointment. At the very least, legal agents submit their accounts upon completion of the work in question and/or at year-end.

Limits established in the context of billing requirements, will be incorporated into the national standards and supporting system controls, which, as previously referenced, will be developed as program renewal evolves.

- i) Instructing counsel use new stamps to approve the accounts and that the wording of the stamps better reflects the responsibility of instructing counsel and mentions that it is part of the section 34 approval as outlined in the *Financial Administration Act*. Alternatively, a letter with appropriate wording could be used instead of the stamp.**

I agree. The current practice is to forward accounts to clients for payment, under cover of “taxation” letters or memoranda. In light of this, the practice of affixing a taxing stamp to an account to reflect Justice instructing counsel’s recommendation for the financial authority to provide section 34 approval is no longer required nor widely used. Direction on the account verification and payment processes is included in the revised Civil Litigation Deskbook chapter on agents, which has been updated to reflect evolved practices.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase’s electronic billing component. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from program renewal. All relevant documentation will be incorporated into a manual into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

- j) Guidelines are provided to instructing counsel on when to hold back accounts exceeding the estimated total for the case.**

I agree. Procedures are in place to ensure that instructing counsel are aware of the requirement to monitor costs against projections, and, the action and reporting required to notify the LPMU where costs exceed, or are expected to exceed, original projections. Direction on monitoring costs against projections is included in the revised Civil Litigation Deskbook chapter on agents, which has been updated to reflect evolved practices.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component, and ultimately allow for the development of system controls and more extensive tracking of agent activities and associated costs. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from program renewal. All relevant documentation will be incorporated into a manual into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

- k) Instructing counsel keep case records of costs-to-date and ensure that when costs are exceeded an explanation and a new estimate is sent to the LCSS. The LCSS should advise the LPMU of these cases.**

I agree. In practice, some instructing counsel do maintain records of accounts received and total-to-date costs, which supports the monitoring, and controlling of overall costs per case. Procedures are in place to ensure that instructing counsel are aware of the requirement to monitor costs against projections, and, the action and reporting required to notify the LPMU where costs exceed, or are expected to exceed, original projections. The function currently provided by LCSS (AAU) with respect to civil accounts includes notifying the LPMU of those files for which the total accounts received and recorded to date exceed the specified projections. Direction on monitoring costs against projections is included in the revised Civil Litigation Deskbook chapter on agents, which has been updated to reflect evolved practices.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component, and ultimately allow for the development of system controls and more extensive tracking of agent activities and associated costs. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from program renewal. All relevant documentation will be incorporated into a manual into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

l) Instructing counsel know to seek advice from the LPMU on how to correct a situation when an agent deals directly with the client or sends accounts directly to the client.

I agree. The standard letter of appointment package provides agents with clear instructions on the appropriate preparation and routing of accounts for verification and payment. The Civil Litigation Deskbook chapter on agents, which has been updated to reflect evolved practices, provides direction to instructing counsel as to the instructions to be provided to legal agents in this regard. As well, active steps have been taken to educate stakeholders as to the assistance provided by LPMU with regard to the activities performed by instructing counsel in the overall management of the Civil legal agent activities.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from program renewal. All relevant documentation will be incorporated into a manual into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

m) Consideration is given to having instructing counsel issue a letter to agents when they approve payments shared by departments, with the individual amounts before and after GST provided to facilitate agents' identification of payments.

I agree. As previously indicated, all original taxed accounts are submitted to the responsible client department for payment under cover of a standard "taxation" letter/memorandum. A copy of the letter or memorandum is forwarded to the legal agent as a means of providing notification that the account has been reviewed and sent to the appropriate client for payment. Direction on the account verification and payment processes is provided in the Civil Litigation Deskbook chapter on agents, which has been updated, to reflect evolves practices.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. As the implementation of renewed practices and supporting

structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from program renewal. All relevant documentation will be incorporated into a manual into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

- 46. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, ensure that a iCase user requirements for the civil agent program specify the ability to track reductions for each account to permit analysis of reductions and identification of agents making repeated errors.**

I agree. All legal agent requirements, for both FPS and Civil operations, have been identified and incorporated into the current version of iCase. Albeit, only limited expenditure information from civil agent accounts will be entered into iCase at the initial stages of implementation, it is my understanding that the functionality of the billing component will provide for the recording of reductions. The relevant reports to track such changes have been defined and identified in the user requirements; however, they will only be developed as part of subsequent rollouts to Phase I.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. This would ultimately allow for the development of system controls and more extensive tracking of agent activities and associated costs, which would support the development of benchmarks and the production of more comprehensive reports. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from the program renewal. All relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

- 47. It is recommended that the Assistant Deputy Attorney General, Civil Litigation review the current holding of civil agent accounts that exceed original estimates and try to arrive at a simpler process for data entry of accounts that exceed estimates.**

I agree. In the context of the function provided by LCSS (AAU) with respect to civil agent accounts, which is discussed in response to recommendation #5, LCSS (AAU) has

implemented a process whereby the system will accept the data entry of an account, which exceeds the projections recorded in the system. As well, as indicated in recommendation 45(j), procedures are in place to ensure that instructing counsel are aware of the requirement to monitor costs against projections, and, the appropriate action and reporting required to notify the LPMU where costs exceed, or are expected to exceed, original projections. Direction on monitoring costs against projections is included in the revised Civil Litigation Deskbook chapter on agents, which has been updated to reflect evolved practices.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component, and ultimately allow for the development of system controls and more extensive tracking of agent activities and associated costs. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, the continued requirement for the function currently provided by LCSS (AAU) with respect to civil agent accounts, will be revisited. System controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from program renewal. All relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

Payment

Because accounts must go to two departments before they are paid, most accounts are paid in a minimum of 60 days. According to government policy, accounts should be paid in 30 days otherwise agents can request to be paid interest.

During our review, we were informed by a legal agent that a duplicate payment had been received and that it was in the process of being returned. This can occur for a number of reasons. As noted earlier, there can be situations where an agent submits an account twice in error. Appropriate controls must be in place to ensure that this is caught and does not result in a duplicate payment. Also, other government departments make payments to agents, subject to account verification undertaken by the Justice instructing office. Because more than one department is involved in the payment process, the risk of error or duplicate payment is increased. It is our understanding that the implementation of iCase will mitigate duplicate payments. We found that occasionally the Department learns of a duplicate payment but keeps no records of this.

When agents do not receive payment they contact the Justice instructing office, usually many months after the account was sent. Justice officials have to spend considerable time tracking the payments since they are made by other departments and the person handling them may have changed or units may have been reorganized. In some cases, the agent may have received payment, but recorded it incorrectly.

Recommendations and Management Response

48. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, ensure that:

- a) Instructing counsel process accounts within a specified time period considering that client departments also need time to process accounts and that the government requires suppliers be paid within 30 days.**

I agree. Direction on the account verification and payment processes is provided in the Civil Litigation Deskbook Chapter on agents, which has been updated to reflect evolved practices. To support a more consistent and rigorous approach to the processing of agent accounts, national standards and supporting checklists and guidelines will be developed and documented for implementation by September 2004. Such standards will incorporate established requirements for the timely processing of accounts.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from program renewal. All relevant documentation will be incorporated into a manual into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

- b) Records are kept of known duplicate payments, responsible persons notified and, where possible, corrective actions taken to eliminate them.**

I agree, although, historically this has not been a problem. Direction on the account verification and payment processes is provided in the Civil Litigation Deskbook Chapter on agents, which has been updated to reflect evolved practices. The responsibility for

account verification rests with various instructing counsel and is conducted on a case-by-case basis. In practice, some instructing counsel do maintain records of accounts received and total-to-date costs which facilitates the identification of duplicate accounts during the account verification process, and, thereby avoids the further processing and submission of same for payment. The Departmental financial management system has checks, albeit limited, for duplicate payments of Justice paid accounts. Where accounts are submitted to other government departments to issue payment, we have very limited control over the payment process at their end. The current data entry function provided by LCSS (AAU) provides for a further opportunity to identify where a duplicate account has perhaps slipped by and been sent to another government department for payment.

To support a more consistent and rigorous approach to the processing of agent accounts, national standards and supporting checklists and guidelines will be developed and documented for implementation by September 2004. Such standards will incorporate the procedures required to monitor for duplicate payments and maintain records, and, the appropriate action and reporting required where duplicate payments are in fact recognized.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component, and ultimately allow the development of system controls and more extensive tracking of agent activities and associated costs. As the implementation of new practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from program renewal. All relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

c) Records are kept of the number of questions received about unpaid accounts (and their resolution).

I agree, however, given the number of Justice counsel currently involved in the review of accounts, this would be difficult to implement and monitor. As well, in practice, where an account has been taxed and sent for payment, the agent is referred to the appropriate client contact for any follow-up. With the creation of national standards and a national framework as referenced above, procedures for reporting such queries may be established and a network implemented to facilitate the sharing of such information.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component, and ultimately allow the development of system controls, more extensive tracking of agent activities and associated costs and, the production of more comprehensive reports. As the implementation of new practices and supporting structures and systems are identified and rolled out, system controls will be developed, established standards, supporting checklists and guidelines, and the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from the program renewal. All relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

5.3 Closed Cases

During the course of the audit, we found that closed cases were not being recorded as closed in the IFMS. During the preparation of this report we learned that FPS and civil cases are now being recorded as closed in IFMS and a process is being put in place to update IFMS records on an on-going basis.

Recommendations and Management Response

49. It is recommended that the Accounting Services Manager ensure that the process to record closed cases in the IFMS is continued.

We agree. The IFMS team has provided additional tools to facilitate this process. We are currently waiting for an implementation of a new definition on closed cases to be forwarded to the agents before continuing the closing of cases in IFMS.

6. SIGNING AUTHORITIES

We examined the authorities for signing letters of appointment and for approving accounts under section 34 of the *Financial Administration Act*. We did not examine signing authorities under section 33 of the same *Act* because those apply to all payments of the Department. Section 33 of the *Act* states that payments should be made only against authorized appropriations when they have been properly approved by authorized persons. Section 33 authority is assigned to financial officers and is the last approval before cheques are prepared.

6.1 Agent Appointments

The authority to appoint agents is assigned to the Minister of Justice and Attorney General by legislation under section 4 and section 5 of the *Department of Justice Act* and section 4 of the Government Contract Regulations. In practice, the Minister's Office, and in some cases the AAU, selects agents and agent supervisors or instructing counsel sign letters of appointment.

The FPS deskbook, June 2000, documents in a general manner who can sign appointment letters.

We could find no documentation on the authority of instructing counsel to sign civil agent appointment letters. When civil agents are hired, the Department pays the agent and therefore someone with budget authority is involved in the appointment. In this case, the link between the appointment of agents and departmental financial authorities needs to be documented.

For low dollar contracts, the AAU is selecting ad hoc agents based on Ministerial verbal agreements. This process is not documented. Also there is no documentation to define under what conditions the Minister needs to be consulted for AAU agent appointments: for example, should the Minister be consulted if the cost estimate for the AAU's initial appointment is exceeded?

Recommendations and Management Response

50. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, in consultation with the Finance, Administration and Program Directorate, ensure that the authority of instructing counsel and departmental managers (with financial authority) to sign appointment letters be clearly outlined in departmental policies or manuals.

I agree. Consultations and studies have been ongoing with respect to the appointment of legal agents and the establishment of revised policies and procedures to further support operational demands while increasing management controls. Further to discussions with the Finance, Administration and Program Directorate, the delegation of signing authorities required to effectively support such management controls is documented accordingly in the revised Delegation of Financial Signing Authorities Chart and supporting notes.

In the context of civil agent program renewal, options are being studied to ensure that the principles of transparency and accountability are reflected in the selection, appointment and management of legal agent activities. Changes are expected in the areas of operations, financial management and policy. The development of an implementation plan and support business case are in progress to move forward with renewed practices and supporting structures and systems. Management controls as well as related policies and procedures will be revisited and revised as required, as program renewal evolves. The Civil Litigation Deskbook chapter on agents will be revised in a timely fashion to reflect all resulting changes and relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

51. It is recommended that the AAU Executive Director obtain written approval from the Minister for the AAU's authority to select ad hoc agents for low dollar value assignments. The document should also define required approval when there are significant changes to the appointment or cost of the case.

I agree. We currently obtain verbal approval and a note to file is prepared by the Appointment Coordinator to that effect. We intend to discuss this issue with Minister's office staff to obtain clear direction on these matters.

6.2 Approval of Accounts for Payment

Section 34 of the *Financial Administration Act* states that payments should be made only when an authorized person certifies that the work has been performed and that the price charged is according to the contract. This includes checking the reasonableness of the charges contained in the accounts. Some of the requirements of the TBS Account Verification Policy are:

- all payments and settlements must be verified and certified pursuant to section 34 of the *Financial Administration Act*;
- primary responsibility for verifying individual accounts rests with officers who have the authority to confirm and certify entitlement pursuant to section 34 of the *Act*. Persons with this authority are responsible for the correctness of the payment requested and the account verification procedures performed;
- departments must establish and document internal policies outlining the extent of verification required, based on risk considerations, to certify that certain requirements have been complied with.

Regarding FPS, until recently and still for most accounts, the accounts are being checked, but not sufficiently for reasonableness. FPS agent accounts are checked by LCSS verification clerks, the senior verification clerk, and the manager. However, the AAU and LCSS are implementing a new process whereby the reasonableness of agent accounts will be determined based on agent supervisors' verification of a statistical sample of cases. During the preparation of this report we were informed that starting in April 2002 an AAU financial officer will approve payment as part of the section 34 process. However, he will only be reviewing total payments to agent firms and will not review individual case accounts. This process will not meet the requirements of section 34 for reasonableness. Once the new process discussed in the section "Reasonableness Verification" is in place, accounts will have three or four reviews, depending on whether or not they are drug accounts. All these reviews are necessary for meeting the requirements of section 34. It will also be necessary to provide agent supervisors with proper tools for checking reasonableness and the AAU has stated its intention to do so. The process and authorities for meeting the requirements of section 34 are yet to be documented in departmental policies or manuals.

Under the new process, one of the FPS non-drug account checks is done by enforcement officers. The certification wording used for their signature is open to interpretation.

For civil accounts, the situation is complex. Instructing counsel are reviewing accounts and signing them before they go to other government departments. If the account is paid by the

Department of Justice, the accounts are sent to be signed by someone with section 34 authority according to the departmental financial delegation process. In these instances, section 34 requirements are being met. When the accounts are paid by other government departments they are signed by the client department according to section 34 requirements. However, the client department is not in a position to assess reasonableness and must pay the amount that has been approved by the Department of Justice. Therefore, departmental policy should clearly explain the meaning of the instructing counsel's account certification and indicate that they are authorized to sign as a prerequisite to meeting the requirements of section 34. This policy should be prepared in consultation with the departmental Finance, Administration and Program Directorate.

Recommendations and Management Response

52. It is recommended that the AAU Executive Director, in consultation with the Finance, Administration and Program Directorate, ensure that the process and authorities for approving FPS accounts meets the requirements of section 34 of the *Financial Administration Act* and is documented in departmental policies or manuals.

I agree. The legal account verification process is designed to not only verify the correctness of certain purported facts, (e.g. fee rate) it incorporates an ongoing audit to determine whether accounts meet the requirements of section 34 of the *Financial Administration Act*. The audit presumes a level of financial risk associated with case cost, not accounts, and this is an important distinction because accounts are approved before the case cost is determined. Some accounts are pulled before the case cost reaches a predetermined point, based on a financial risk assessment, but most accounts are subject to an after-the-fact review.

The AAU and the LCSS are implementing an account review process across the country whereby the reasonableness of agents accounts will be determined, on a statistical basis, based on the responsible agent supervisor's review of the accounts/cases. We intend to have this procedure in place by the end of 2003/2004 fiscal year.

53. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, in consultation with the Finance, Administration and Program Directorate, ensure that the process and authorities for approving civil accounts meets the requirements of section 34 of the *Financial Administration Act* and is documented in departmental policies or manuals.

I agree. Consultations have been ongoing with respect to the account verification process and the establishment of revised policies and procedures, which will further respond to

financial concerns, meet operational demands and increase management controls. Further to discussions with the Finance, Administration and Program Directorate, the delegation of signing authorities required to effectively support such management controls is documented accordingly in the revised Delegation of Financial Signing Authorities Chart and supporting notes.

In the context of civil agent program renewal, options are being studied to ensure that the principles of transparency and accountability are reflected in the selection, appointment and management of legal agent activities. Changes are expected in the areas of operations, financial management and policy. The development of an implementation plan and support business case are in progress to move forward with renewed practices and supporting structures and systems. Management controls as well as related policies and procedures will be revisited and revised as required, as program renewal evolves. The Civil Litigation Deskbook chapter on agents will be revised in a timely fashion to reflect all resulting changes and relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

7. NEW PROCEDURES FOR FPS ACCOUT VERIFICATION

7.1 List of New Cases

Starting in September 2001, a monthly list of all new cases was being sent to agent supervisors in two regional offices. The agent supervisors we interviewed had received the listings but had not reviewed them. If they do not review the list they will not be aware of cases assigned by enforcement officers to ad hoc agents, and would usually only know about the cases in the statistical sample when they receive the accounts as part of the statistical reasonableness verification. Agents supervisors mentioned that the list is not currently useful. When providing the list, LCSS could highlight particular cases for an individual supervisor's attention.

Recommendations and Management Response

54. It is recommended that the AAU Executive Director and the Accounting Services Manager discuss with agent supervisors how to make the list of new cases useful.

We agree. In recent months the Systems Manager and the AAU have worked with the agent supervisors and have streamlined and enhanced the information package, which is sent to the regions on a monthly basis.

The list of new cases is an input into the determination of the agent's current active case inventory, which is the objective. Determining the active case inventory also relies on a list of closed cases, which is an ongoing project.

7.2 Reasonableness Verification

At the time of the review by the audit team, only the Toronto Regional Office and the Ottawa-Gatineau Federal Prosecution office were subjected to the new reasonableness verification process. This process was started in September 2001, was still being improved, and had little history.

TBS Account Verification Policy supports the use of sound statistical sampling, which objectively determines the sample size according to the desired degree of confidence. As part of several improvements to verify accounts, a statistical sample of cases is being sent to agent supervisors for review and certification. This is probably the best improvement to the verification of accounts in several years. There are two new processes for verifying reasonableness of accounts and case costs.

In the first process, all cases that have total accounts over a certain amount are sent to the agent supervisors for certification before payment of the latest account. During the audit this first process was implemented in Ontario and was being implemented for British Columbia. This process caused the LCSS to reorganize its files and the agent billing practices. Agents are continuing to bill as before (one account contains multiple cases). However, once a case is selected for audit, agents are now asked to separate future billings by case. LCSS is now filing the Part II of the accounts by case and the Part I by agent firm. Before, LCSS filed accounts by agent.

For Ontario, all cases with total expenses over \$5,000 were selected for agent supervisor verification. For cases in the sample, the LCSS does a thorough verification of all accounts and phones the courts to verify that lawyers were in court as claimed. (This does not apply to youth offender cases.) After an agent supervisor has reviewed a case, s/he specifies the next total cost threshold for when to review the case again.

One of the regional offices approached for the pilot was unable to verify the sample of cases, but we were informed that this was temporary and they would review the sample at a later date. Other agent supervisors that we interviewed wanted to receive the case samples as soon as possible.

The second process is for low dollar value cases and applies to cases not selected in the first process. For these, a statistical sample is selected and there are two options.

- If the total cost of the case is \$100 or more, the case is sent to the agent supervisor for certification.
- If the total cost is under \$100, the case is reviewed only by the LCSS.

In the second process the sample was being selected based on case counts and various other factors, such as total billings by firm in the quarter, number of cases billed by the firm, type of practice (either mixed or drug only) and size of jurisdiction of the firm. Dollar cost sampling,

which would give assurance that a certain percentage of the cost of all cases had been reviewed, was not being used.

In both processes, cases where errors are found are flagged for more stringent future reviews. The initial intent is to educate agents to bill properly and to provide better explanations, making them aware that the Department has a better review process. The intent is to also eventually be more strict in reducing accounts and to recommend the removal of agents who make repeated errors. The AAU indicated that they are considering auditing agents' internal records for certain cases.

We reviewed a sample of 10 case account files after completion of the new verification process when its implementation had just started and improvements were being made. The results of our testing do not imply a statistical result for the total population. We found that:

- certification wording used by the agent supervisors did not properly reflecting that the certification was for reasonableness as part of section 34 verification and that, by extension, the process approves all existing accounts;
- better notes were required on checks, findings, and follow-up actions. For example there was no note on who was contacted at the court and on what date;
- when overpayments were found, a standard recovery procedure had yet to be defined;
- in one out of ten cases not all accounts making up the total for the case had been found;
- in one out of ten cases the summary (verification) forms were not signed by the LCSS;
- one out of ten cases had a wrong lawyer fee;
- in four out of ten cases we could not tell if the correct fee had been billed since the years at the bar for the lawyers named in the accounts were not in the Canadian Law List and there was no date on file to show when the lawyer had been called to the bar. Also, we could not tell if the lawyer started work before appointed because we could not find the appointment letter.

In March 2002, the reductions resulting from the new verification process were \$2,100 on a total cost of \$374,000 or .6 percent, for cases to date. The initial priority was to make agents change improper billing practices. It would be premature to reach a conclusion on the reductions to be achieved by the new process since it has only recently been implemented. Also, it should be noted that these reductions are in addition to those made by the LCSS when they initially verify the accounts. One of the difficulties for the agent supervisors is that they cannot know exactly how much time agents spend on a case. The AAU indicated that it intended to develop benchmarks (such as categorizing costs by section of the appropriate act or Criminal Code—each

section of an act or the Code applies to certain types of cases) to assist with the verification of time charged by agents. We noted that agent supervisors have no guidelines on how to verify accounts.

Under this new process, agents have been asked not to submit disbursement invoices for drug cases even though some disbursements are substantial. Disbursement invoices are to be held until requested, when cases are selected for review. As explained earlier, the current terms and conditions of appointment require agents to submit invoices for disbursements higher than \$10.

When disbursements are not submitted with accounts, it is our opinion that it is more work for agents and for the LCSS, which must request disbursement invoices several months or, occasionally, years after the accounts were first received. If disbursement invoices are submitted with all applicable accounts, the LCSS will have a complete file that can be reviewed when needed. On the other hand, agents are required to provide disbursement invoices for non-drug accounts, which creates inconsistencies in the process. The Department should have uniform practices and these practices should be consistent with the way other federal government institutions ask for disbursement invoices. Although disbursements are about 10 percent of the total cost, there is a significant number of cases with high disbursements. A sample of cases for one province showed that 16 cases had disbursements for more than 30 percent of the total cost for each case for a six-month period. Of these, the two highest cases had disbursements of \$51,000 and \$285,000. We also discuss this issue in the section “FPS Cases.”

TBS Account Verification Policy (Appendices A and D) outlines several requirements for statistical sampling verification and for completing the account verification after payment. The requirements are being met except there are no up-to-date procedures for identifying and documenting specific payments subject to the sampling. Also, the post-payment verification procedures have not been documented. TBS policy also requires, as discussed earlier, that policies dealing with the whole verification process be documented.

Recommendations and Management Response

55. It is recommended that the AAU Executive Director recommend that Regional Directors ensure that agent supervisors participate in the review of case samples.

I agree. The AAU Executive Director will recommend that Regional Directors ensure that agent supervisors participate in the review of case samples.

56. It is recommended that the AAU Executive Director and the Accounting Services Manager implement a process whereby low dollar value cases are selected for review using a dollar sampling technique.

We agree. This is the long-term goal of the audit process. However, at this time the required tools such as benchmarking are not yet fully developed or in place. Once that process has begun we will investigate the cost / benefit of implementing dollar unit sampling and changing the audit/verification processes over to that method, supplemented with other sampling methods, if required.

Once the sample is pulled for review, it is mandatory that the Agent Affairs Program have the resources to review the sample on a timely basis. This situation does not currently exist.

57. It is recommended that the Accounting Services Manager ensure that:

a) Agent supervisor's certification wording (for reasonableness) for statistical samples is improved.

We agree. This has been implemented and a standardized wording is now utilized.

b) All checking and actions taken further to the sample reviews are properly documented and that the LCSS staff properly sign verification forms.

We agree. This has been done.

c) A standard recovery process is defined for overpayments.

We agree. The recovery process for overpayments has been defined and implemented.

d) The LCSS's checking of lawyers' fees is improved.

We agree. The fee rate checking has been improved, and iCase has been built to check this automatically.

- e) Agents submit disbursement invoices with all applicable accounts and according to the limits set by the Department.**

We agree. This, as noted in recommendation 42-c, is being done for all non-JEF accounts. However, we are in discussions with the AAU as to how this will be done in the future all-electronic world of iCase.

- 58. It is recommended that the AAU Executive Director ensure that better tools, such as benchmarks, for agent supervisors and AAU staff are provided to assist in the verifying of accounts.**

I agree. The development of better tools to assist in the verifying of accounts is a priority for the program. The iCase system should provide the basic case information necessary to achieve this goal.

- 59. It is recommended that the AAU Executive Director ensure that written procedures are provided to agent supervisors on how to verify accounts.**

I agree. The account review process conducted by Agent Supervisors is a pilot project that exists in Toronto and the Ottawa-Gatineau offices. Once the “lessons learned” are gathered and, assuming sufficient Agent Supervisor resources exist to roll the review process out across the country, a policy & procedures document will be issued.

- 60. It is recommended that the AAU Executive Director and the Accounting Services Manager ensure that up-to-date written procedures are developed for the statistical case verification process.**

We agree. As the case verification and audit process matures from the current pilot phase into full implementation, a comprehensive set of procedures will be compiled and published.

8. RECOMMENDATIONS AND MANAGEMENT RESPONSE

- 1. It is recommended that the AAU Executive Director develop an updated document that defines the National Agent Affairs Program—FPS, obtain necessary approvals for the document, and ensure its appropriate distribution.16**

I agree. The National Agent Affairs Program – FPS has evolved to the point where it involves unique functions to supervise agents and perform the account review process. These responsibilities must be clearly delineated within an overall framework and understood within regional FPS so as to eliminate confusion and implement the AAU’s management control framework. The possible transfer of LCSS to the AAU will bring significant changes to the roles and responsibilities of the AAU.

- 2. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, ensure that updated documents are developed that define the National Agent Affairs Program—Civil Agent Program, a mandate for the LPMU including its relationship to the AAU, and ensure that these documents are approved and issued.16**

I agree. The responsibility for the civil component of the agent program was transferred to the Civil Litigation Branch in 2001, under the management of the Litigation Practice Management Centre³ created in 2002 (referenced throughout as LPMU). The mandate and roles and responsibilities of the LPMU are defined in the document *The Litigation Practice Management Centre Mandate*.

An updated civil agent program design, which includes program objectives, activities, roles and responsibilities, outputs/products and performance indicators, lays the foundation for an evaluation framework, subsequent evaluation and the development of relevant management and administrative policies and procedures to guide all stakeholders (i.e. - staff, departmental

³ At the time the auditor conducted his research, the Litigation Practice Management Centre was known as the Litigation Practice Management Group and was referenced throughout by the acronym LPMU. For the purposes of the management response, the Litigation Practice Management Centre will be referenced by LPMU.

colleagues, government departments and agencies, private sector counsel, Minister's Office, etc.).

Further to a recognized need for a benchmark for planning and an evaluation framework for comparison purposes, in order to report on progress against plans or performance measures, work is underway with Justice Canada's Evaluation Division for the development of a Results-Based Management and Accountability Framework (RMAF) for the civil agent program.

The Program design complements the *Management Control Framework of the Agent Affairs Program* (MCF), developed by *Deloitte Consulting* and dated May 2001 (copy was provided to auditor as a reference document). Amongst other things, the MCF defines the roles, responsibilities and relationships between the different arms of the departmental Agent's Program, i.e. AAU, LCSS and the Civil Component of the Program.

The new Civil Litigation Branch Intranet (JUSnet) site was published November 11, 2002 and includes information with respect to the LPMU including its responsibilities for the Civil Component of the Agent Affairs Program. It has been designed and will be used to allow for the communication of all relevant documentation. As well, information with respect to agents will also continue to be communicated throughout the Department through other ad hoc communications.

In support of the government's commitment that integrity prevails in government operations, the Department of Justice is directing the review of legal services in close cooperation with the Treasury Board Secretariat. In the context of this review, and, further to the recommendation and endorsement of the Minister and Deputy Minister of Justice, we are exploring with a view to renewal, the way in which we manage the delivery of legal services by agents. Options are being studied to ensure that value is obtained from legal agents and that the principles of transparency, accountability and value are reflected in the selection, appointment and management of legal agent activities. Changes are expected in the areas of operations, financial management and policy. The development of an implementation plan and supporting business case are in progress to move forward with renewed practices and supporting structures and systems. The *Civil Agent Program Design and Litigation Practice Management Centre Mandate* will be amended in a timely fashion to reflect resulting changes.

Refinements to the MCF will be made in order to reflect the transfer of responsibilities for the Civil Component of the Program to the LPMU, as well as changes resulting from the

program renewal. In consultation with the AAU Executive Director, the ADAG (Civil Litigation) will confirm what, if any, roles and responsibilities remain with the AAU where the Civil Agent Program is concerned (see response to recommendation # 5).

- 3. It is recommended that the Accounting Services Manager and the AAU Executive Director implement the merging of the legal agents related functions of the LCSS unit and the Systems Manager position with the AAU.19**

We agree that this option should be closely examined. There is currently a discussion paper, which looks at all aspects of the proposed merger. The draft recommends the merger of the two units.

- 4. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, and the AAU Executive Director ensure that the agent responsibility areas of the AAU, LCSS, and the LPMU are documented.....20**

Civil Litigation

I agree. Further to the 2001 transfer of responsibility for the civil component to the Civil Litigation Branch, under the management of the LPMU created in 2002, the undue overlap of activities has been eliminated and operations and accountability of the Agent Affairs Program have been enhanced. The MCF referred to above defines and documents the roles and responsibilities as well as relationship of the AAU, LCSS and of the Civil Component of the Program. The MCF will be refined to reflect the changes resulting from the transfer of responsibilities to the LPMU as well as the renewed approach reflected in response to recommendation # 2.

In accordance with the current practice, the AAU and LPMU are kept apprised of program issues of common interest to both sides of operations and, where necessary, joint effort communications are drafted.

FPS

As noted in my response to recommendation #1, the role of the regional agent supervisor units has evolved and is unique within FPS. This has direct implications on the overall management of the AAP-FPS. Documentation is particularly important for the account review process as it relates to iCase.

- 5. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, and the AAU Executive Director consider maintaining operational aspects with the AAU while implementing a process so that the priorities of civil litigation are addressed.20**

Civil Litigation

I agree. Consideration was given to maintaining some operational aspects with the AAU. However, further to the creation and staffing of a dedicated civil Agent Appointment Coordinator in April 2003, since the writing of the report, there is no area of civil agent operations remaining under the line responsibility of the AAU.

Now housed with the AAU since the April 2003 merger, LCSS continues to provide services with respect to civil agent accounts under the functional direction of the LPMU. These services include the processing of Justice paid accounts, recording of all other civil agent expenditures into IFMS, maintenance of civil account records, and, the reporting on all financial aspects of agent activities.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component, and ultimately allow for the development of system controls in the account verification process, more extensive tracking of agent activities and associated costs, and the production of more comprehensive reports. The continued requirement for the function currently provided by LCSS (AAU) with respect to civil agent accounts as described above, will be revisited as the implementation of renewed practices and supporting structures are identified and rolled out.

FPS

I agree that this option should be considered. With the possible merger of LCSS and AAU, the current functions of LCSS with respect to civil accounts would be maintained. Civil Litigation may decide in the future to undertake account verification and systems activities specific to its area of expertise. We agree with the audit team that such a decision is premature at this point.

6. If the LCSS and AAU are merged, it is recommended that the AAU Executive Director ensure that there is proper backup for all key staff and, in particular, for the Systems Manager.....22

I agree. The role of the Systems Manager is a particularly sensitive role, requiring backup and to a large extent, many of the reports generated by the Systems Manager can now be generated by other staff within the AAU.

7. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, ensure that as the civil agent program and role of the LPMU are defined, an analysis of required resources should be completed and resources obtained if required.....23

I agree. In fact, since the audit report was written, two new positions have been created within the LPMU. One FTE was added to assist the Agent Appointment Coordinator in September 2002 and a dedicated civil Agent Appointment Coordinator position was created and filled in April 2003.

In the context of a departmental review of the way in which we manage the delivery of legal services, options are being studied to ensure that the principles of transparency, accountability and value are reflected in the selection, appointment and management of legal agent activities. Changes are expected in the areas of operations, financial management and policy. The development of an implementation plan and supporting business case are in progress to move forward with renewed practices, supporting structures and systems.

The defined role of the LPMU will be revised and resources sought as the implementation of renewed practices and supporting structures and systems are identified and rolled out. *The Litigation Practice Management Centre Mandate* will be modified in a timely fashion to reflect resulting changes.

8. It is recommended that the AAU Executive Director update plans for the AAU each year and ensure plans are distributed to the LPMU, Accounting Services, agent supervision units, and senior management.....25

I agree that annual plans of the AAU should continue to be distributed within the FPS. It is recognized that the AAU has a current and formally defined mandate within the FPS. The Agent Supervision Units (ASUs) are involved in defining the strategic direction of the AAU and it's priorities. The AAU-HQ has a supporting role to play vis-à-vis ASUs. Annual plans

and priorities have been prepared for many years. They have been communicated to ASUs and senior management.

9. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, implement a process for preparing yearly program plans for civil agents and ensure plans are distributed to the AAU, instructing counsel, and senior management.25

I agree. Workplans relating to the Civil Agent Program will be prepared annually by the LPMU and distributed to stakeholders.

In the context of the civil agent program renewal, the program plan for Fiscal Year 2004-05 will include the implementation of renewed practices and resourcing of supporting structures.

10. It is recommended that the AAU Executive Director issue management reports on the status of the FPS agent program. Such reporting could include but is not limited to: ...27

- **progress against plans,**
- **performance measures,**
- **issues,**
- **statistics of agent appointments and resignations,**
- **number of accounts and amounts reduced,**
- **number of cases with enriched fees,**
- **number of cases open and closed,**
- **time taken to process accounts.**

I agree. Management reports should be issued on the status of the FPS agent program. The financial status is of primary concern considering the size of the drug prosecution fund deficit. The following management reports are currently issued by Headquarters to regional offices:

- Agent Supervision Unit's Salary and O&M Financial Status
- Legal Agent Fees & Disbursements Financial Status
- Cases Billed on by Legal Agents – Year over Year
- Legal Agent expenditures by firm – Year over Year
- Average Case Cost – Year over Year
- Cases assigned – current month

These reports are very useful for the ASUs for the management of agents in the regions and for financial and management reporting at HQ for senior management and Treasury Board.

In order to report on progress against plans or performance measures, it is necessary to have a goal or a benchmark for planning and comparison purposes. The program needs to continue the research to develop these tools. The AAU has developed and communicated specific systems requirements for iCase to better position the Program in terms of its capacity to analyze data and provide meaningful analysis to senior management.

11. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, ensure that management reports are prepared and issued on the status of the civil agent program. Such reporting could include but is not limited to:28

- **progress against plans,**
- **performance measures,**
- **issues,**
- **statistics of agent appointments and resignations,**
- **number of accounts and amounts reduced,**
- **number of cases with enriched fees,**
- **number of cases open and closed,**
- **time taken to process accounts.**

I agree. Manual procedures have been implemented and tools developed to maintain information pertaining to agent appointments and facilitate statistical reporting.

It is recognized as well that, in order to report on progress against plans or performance measures, it is necessary to have a benchmark for planning and an evaluation framework for comparison purposes. In response to this need, work is underway with Justice Canada's Evaluation Division for the development of a results-based management and accountability framework (RMAF) to guide the civil agent program.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. This would ultimately allow for the development of system controls, and, more extensive tracking of agent activities and associated costs, which would support the development of benchmarks and the production of more comprehensive reports. The continued requirement for manual procedures and tools to facilitate the provision of statistical information needed to compile and issue management reports on the status of the

civil agent program, will be revisited as the implementation of renewed practices and supporting structures and systems are identified and rolled out.

12. It is recommended that the AAU Executive Director:31

- a) Ensure that a note is placed on the LCSS quarterly expense report for agent costs indicating that there are limitations with the accuracy of the report.**

I agree. However, it should be noted that the quarterly report is used by management as a measure of trends and performance indicators. The numbers in the report are in thousands, so the level of accuracy has a much lower threshold. The part of the report, which does drill down to the dollar level, will be modified so that it too reflects expenditures in the thousands.

- b) Explore measures that can be undertaken to encourage agents to bill at least at year-end.**

I agree. Agents should be encouraged to bill, at least at year-end. The Terms & Conditions of Appointment request a monthly bill from agents if they have \$500 or more due. Submitting a bill for payment is incentive enough for some agents but not for all agents. Late invoicing practices have been monitored by the LCSS who have relayed the information to Agent Supervisors for follow-up. This is a labour intensive practice. A regular year-end memorandum is issued advising all agents of the necessity of submitting invoices in a timely manner.

13. It is recommended that the Assistant Deputy Attorney General, Civil Litigation:31

- a) Ensure that requests are made to other departments that continue to have significant differences in legal agent account reporting to use the proper financial codes regarding legal agent costs.**

I agree. Active steps are being taken to educate stakeholders as to the Civil Agent Program. In March 2003 a communication was distributed to departmental senior management, advising as to the policies, procedures and environment surrounding legal agent appointments.

As well, in response to the identified problems associated to the inappropriate use of financial coding as a source for discrepancies, a consultation process has been initiated by

Justice Corporate with TBS and PWGSC to identify where the problems lie with a view to implementing standards for the recording of legal services.

In the context of civil agent program renewal, options for change are being studied which would support and facilitate more control over the recording and reporting of agent expenditures within Justice systems as well as in the financial systems maintained by concerned departments and agencies. The development of an implementation plan and supporting business case are in progress to move forward with renewed practices and supporting structures and systems. The requirements regarding follow-up in this area, will be revisited as the program renewal evolves.

b) Consider asking agents to include a total-to-date in civil accounts so that missing accounts are noticed.

I agree that the inclusion of the total-to-date costs for services rendered by a legal agent for a particular matter would support the monitoring and controlling of costs per case and identifying where expenditure records maintained in IFMS are incomplete or lacking. A revised Request for Payment (Civil) form has been drafted to include a data field to capture a running total of costs. The implementation of this form is scheduled for June 2004.

In the context of civil agent program renewal, options are being considered which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. This would ultimately allow for the development of system controls, and, more extensive tracking of agent activities and associated costs, which would support the development of benchmarks and the production of more comprehensive reports. The development of policies, procedures and tools supporting the processing and monitoring of legal agent accounts will be revisited as the implementation of renewed processes and supporting structures and systems are identified and rolled out.

14. It is recommended that the Accounting Services Manager develop reports to identify invalid records in the database and take appropriate measures to ensure the integrity of the data.....33

We agree. We have recently worked with the IFMS team to develop a number of new reports, which will assist in identifying the magnitude of the error, and to help in the correction of invalid data. We have also asked for a number of warning messages to be added to critical IFMS data fields to mitigate the potential entry of incorrect data.

15. It is recommended that the AAU Executive Director ensure that manuals are completed that cover procedures for appointment and verification of FPS accounts. Manuals should be posted on the Intranet.34

I agree. The Appointment Office has drafted a Procedures Manual that should be made available on the Intranet in 2003. Procedures governing the verification of FPS accounts are a “work in progress”. Basic account verification procedures are documented. A pilot project verifying the reasonableness of high-risk cases (cases over \$5000) exists in Toronto and Ottawa-Gatineau, but it is too early to say exactly how this pilot will contribute to the review of accounts. Current post-payment procedures are documented and available to all those involved.

16. It is recommended that the AAU Executive Director ensure that the role of the AAU is promoted at departmental conferences and in notices.....34

I agree. Although agent supervision has been an activity within the Department of Justice for a long time, it has become a separate program since the Drug Prosecution Fund was transferred to Justice from Health Canada in 1996. Members of the AAU are present in conferences and meetings where FPS agent activities are being discussed.

17. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, ensure that manuals are completed that cover the verification of civil litigation accounts. Manuals should be posted on the Intranet.34

I agree. Direction on the account verification process and payment of accounts is included in the revised Civil Litigation Deskbook chapter on agents, which has been updated to reflect evolved practices. To support a more consistent and rigorous approach to the account verification process, national standards and supporting checklists and guidelines will be developed and documented for implementation by September 2004.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase’s electronic billing component. This would ultimately allow for the development of system controls, and, more extensive tracking of agent activities and associated costs, which would support the development of benchmarks and the production of more comprehensive reports. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting

checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from the program renewal. All relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

18. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, ensure that the role of the LPMU is promoted at departmental conferences and in notices.....35

I agree. The role of the LPMU is currently documented on the Civil Litigation Branch redesigned JUSnet site. Overviews have also been provided at a number of departmental functions such as the April 2002 Civil Litigation Conference as well as various departmental breakfast and lunch meetings of senior management. It's mandate, roles and responsibilities has been formally introduced through *The Litigation Practice Management Centre Mandate* document on the Civil Litigation Branch JUSnet site as well as in the revised Civil Litigation Deskbook agent chapter.

Active steps have been taken to educate stakeholders as to the civil agent program. In March 2003 a communication was distributed to departmental senior management, advising as to the policies, procedures and environment surrounding legal agent appointments, and, the role played by the LPMU in the overall management of the program.

The Litigation Practice Management Centre mandate and Civil Litigation deskbook agent chapter will be refined to reflect the changes resulting from the program renewal reflected in recommendation # 2.

19. It is recommended that the AAU Executive Director and the Assistant Deputy Attorney General, Civil Litigation:36

a) Ensure that a statement of sensitivity outlining and justifying security requirements for the processing of legal agent accounts is completed for the iCase system.

We agree. A statement of sensitivity outlining and justifying security requirements for the processing of legal agent accounts is being completed by the iCase development team in consultation with various stakeholders, including the Civil and FPS agent affairs programs.

- b) Ensure that, based on the specifications of this statement and if necessary, more secure procedures are implemented.**

We agree. Based on a Protected B designation more secure procedures may be required. Discussions with Justice Canada's Security Division have already taken place and options are under consideration. Security requirements will be further defined as the implementation of renewed practices and supporting structures are identified and rolled out, in the context of program renewal for both the Civil and FPS agent affairs programs.

- c) Ensure that the statement of sensitivity is used as the basis for the preparation of the threat and risk assessment planned by the iCase project manager.**

We agree. Work is underway by the iCase Project Manager for the completion of a new Threat and Risk assessment (TRA), which will include a statement of sensitivity. It is expected that the (TRA) will be completed by September 2004.

- 20. It is recommended that the Team Leader-Senior Counsel, Department of Collections, Litigation and Advisory Services, HRDC legal services unit, ensure that a statement of sensitivity and a threat and risk assessment is completed for CLASMate.....37**

We agree that a more comprehensive threat and risk assessment should be undertaken to ensure that the many measures we have in place are adequate.

- 21. It is recommended that the Accounting Services Manager ensure that the LCSS, in conjunction with IFMS support staff and IMB staff, studies what reports can be produced to decrease the possibility of error or impropriety.....41**

We agree. However, we note that the potential for error or impropriety lies with a lack of segregation of duties. Therefore we will first explore with the AAP the potential for removing from LCSS staff the ability to create new firms and individuals into IFMS. If these explorations are not successful we will work with the IFMS team to develop a report, which details changes to the master agent vendor data.

- 22. It is recommended that the AAU Executive Director ensure that JEF software errors that create duplicate billings are corrected.42**

I agree. JEF release version 4.0 corrected software errors that created duplicate billings.

23. It is recommended that the AAU Executive Director obtain a formal commitment from appropriate systems development departmental managers to the effect that the user requirements for legal agents account processing will be implemented.....44

I agree. The iCase requirements for processing agent accounts are based on experience gleaned from Justice Electronic Forms development, various consultants' documents, multiple discussions and other internal documents that represent a mutual—LCSS, AAU, IMB—understanding of how to move agent requirements into iCase. The JEF software itself forms the basis of our system requirements. This information has been provided to the iCase development team since the beginning.

A formal commitment or project charter with IMB to implement these requirements is considered necessary. A sequential approach fully implementing the user requirements has been discussed. It should be formalized in fiscal year 2003-2004.

24. It is recommended that the AAU Executive Director ensure that, with the development of iCase, a secure connectivity infrastructure is also developed that meets security requirements for the processing of agent information.45

I agree. A secure connectivity infrastructure is required. The AAU will rely upon the iCase Development Manager for advice.

25. It is recommended that the AAU Executive Director ensure that a practical decision be reached regarding the use of a litigation code set by agents.45

I agree. The litigation code set underpins the AAU's management control framework by defining what information needs to be collected concerning a case. Ideally, the agents would use the same code set as in-house counsel to ensure a consistent reporting format to clients and concerned agencies. A litigation code set has been implemented for agents since 1997. It is based on national standards in the private sector and was found to be very useful in the recently implemented post payment review of accounts. Discussions are ongoing with FPS In-house to standardize the reporting on activities for all agents of the Attorney General (in-house and external resources).

26. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, ensure that clarification is obtained on whether iCase will be used for civil agents and, if required, ensure that user requirements for the processing of civil agents are defined...45

I agree. Data requirements were defined to the iCase development team and incorporated into the system's design to facilitate the tracking of civil agent appointment information as well as related expenditures. National standards and business rules, developed to guide departmental personnel in the integration of agent information into iCase, appear in the user manual provided further to the iCase rollout across the Department, which commenced in September 2003.

Given the ad hoc nature of civil agent appointments and the large number of agents, the feasibility of providing civil legal agents with connectivity to iCase's electronic billing component, has remained under consideration. As such, the development of a litigation code set for use by civil legal agents has remained pending as well.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. This would ultimately allow for the development of system controls, and, more extensive tracking of agent activities and associated costs, which would support the development of benchmarks and the production of more comprehensive reports. The national standards and business rules outlined in the iCase manual, as well as the development of a litigation code set for civil legal agents, will be revisited as the implementation of renewed practices and supporting structures and systems are identified and rolled out.

27. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, ensure that the LPMU participates in the definition of the litigation code set regarding requirements for civil agents.....46

I agree. Given the ad hoc nature of civil agent appointments and the large number of agents, the feasibility of providing civil legal agents with connectivity to the iCase electronic billing component, has remained under consideration. As such, the development of a litigation code set for use by civil legal agents has remained pending as well.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. This would ultimately allow for the development of system controls, and,

more extensive tracking of agent activities and associated costs, which would support the development of benchmarks and the production of more comprehensive reports. The development of a litigation code set for use by civil legal agents will be revisited as the implementation of renewed practices and supporting structures and systems are identified and rolled out.

28. It is recommended that the AAU Executive Director, in coordination with the Assistant Deputy Attorney General, Civil Litigation, ensure that the system requirements document for iCase considers local requirements for information on cases and agents.48

FPS

I agree. The Department of Justice has developed iCase as a means of managing the provision of all Government of Canada provided legal services, including Legal Agents. HRDC's system called CLASMate is used to manage Legal Agents with respect to Canada Student Loans payments and possibly other HRDC programs. Considerations should be given to integrate some or all of its functionalities into iCase. It should be noted that the iCase system may not respond to all local information needs and there may be a continuing need to support some local dedicated systems.

Civil Litigation

I agree. The Department of Justice has developed iCase as a national system to respond to national case management, timekeeping, billing, document management and reporting requirements pertaining to both in-house counsel and legal agents. Personnel from the FPS and civil sides of operations were actively involved in defining user requirements pertaining to legal agents. While iCase cannot and will not meet all local information needs, enhancements may be made to incorporate some local requirements. Given this, the need to support local systems and practices that meet specific and operational needs, may continue to exist to some degree.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. This would ultimately allow for the development of system controls, and, more extensive tracking of agent activities and associated costs, which would support the development of benchmarks and the production of more comprehensive reports. System requirements will be revisited as the implementation of renewed practices and supporting structures are identified and rolled out and existing documents will be revised accordingly to reflect resulting changes.

29. It is recommended that the AAU Executive Director, in consultation with the LPMU Head, ensure that reports referred to in the section “Management Reporting and Forecasting” include statistics on agent appointments, and that this information is used to decide whether further steps are required to decrease the time required to complete the appointment process.....53

FPS

I agree. Further steps that involve the analysis of agent appointment statistics will assist in reducing agent appointment time. The cost of generating the information monthly, quarterly, etc., must be assessed with the need.

Civil Litigation

I agree. The LPMU has succeeded in reducing operational delays associated to the agent appointment process. Since the audit report was written, two additional positions have been created within the LPMU, new procedures and measures have been introduced, and, active steps have been taken to educate stakeholders as to the Civil Agent Program, the policies, procedures and environment surrounding legal agent appointments.

As indicated in our response to recommendation # 11, manual procedures have been implemented and tools developed to maintain information pertaining to agent appointments and facilitate statistical reporting.

In the context of civil agent program renewal, options for change are being studied which include a more extensive integration of civil legal agent appointment information into iCase and ultimately the ability to produce more comprehensive reports as to agent appointments and associated activities. The continued requirement for manual procedures and tools to facilitate the provision of statistical information pertaining to the appointment process will be revisited as the implementation of renewed practices and supporting structures and systems are identified and rolled out.

30. It is recommended that the AAU Executive Director and the Assistant Deputy Attorney General, Civil Litigation, ensure that proper procedures requiring that letters be kept in AAU files are documented in manuals and that procedures are adhered to.....54

FPS

I agree. AAU files should contain the appropriate documentation. The Appointment Office will put in place procedures that will ensure that original signatures of acceptance for standing agent appointments are retained on agent files maintained by the Appointment

office. For ad-hoc appointments, it is a generally accepted procedure to file within the Appointment Office either the original document or a copy. Please note that original signatures of acceptance of the revised Terms and Conditions of Employment have been requested for filing purposes within the Appointment Office.

Civil Litigation

I agree. Requirements for recording of original signatures of acceptance for standing and ad hoc civil agent appointments are documented in the revised Civil Litigation Deskbook agent chapter and conveyed as well through the standard notification message sent to all requestors seeking appointment approval. In accordance with civil operations, it is agreed that original signatures of acceptance relating to standing agent appointments will be retained in LPMU files by the Agent Appointment Coordination Office. Original signatures of acceptance relating to ad hoc appointments will remain on the subject file under the responsibility of the instructing office.

In the context of civil agent program renewal, options are being studied to ensure that the principles of transparency and accountability are reflected in the selection, appointment and management of legal agent activities. Changes are expected in the areas of operations, financial management and policy. The development of an implementation plan and supporting business case are in progress to move forward with renewed practices and supporting structures and systems. The development of more extensive monitoring procedures to ensure receipt and appropriate maintenance of such records will be revisited as the program renewal evolves. The Civil Litigation Deskbook chapter on agents will be revised in a timely fashion to reflect resulting changes.

- 31. It is recommended that the AAU Executive Director and the Assistant Deputy Attorney General, Civil Litigation, ensure that file information reflect who from the Minister’s Office communicated the selection of an agent, who received the selection notice, and on what date.....55**

FPS

I agree. A basic record supporting the agent appointment process should indicate who communicated the selection to the Appointment Office as well as who received the communication and when. As a minimum, a note to file should be prepared by the Appointment Coordinator to document the appointment of an agent. This is currently being done in most instances but we agree it should be done in all instances.

Civil Litigation

I agree. All requests for appointment approval are submitted to the Agent Appointment Coordinator for appropriate processing. Standard procedures and a dedicated contact in Minister's Office are in place, and, practices have been refined by the LPMU to ensure appropriate approvals are recorded on files.

In the context of civil agent program renewal, options are being studied to ensure that the principles of transparency and accountability are reflected in the selection, appointment and management of legal agent activities. Changes are expected in the areas of operations, financial management and policy. The development of an implementation plan and supporting business case are in progress to move forward with renewed practices and supporting structures and systems. Procedures as well as roles and responsibilities in the processing of agent appointments will be revisited and appropriately documented and communicated as the program renewal evolves.

- 32. It is recommended that the AAU Executive Director and the LPMU Head update appointment documents and make them available on the Intranet in electronic form. .56**

FPS

I agree. We are in the process of updating the appointment package for FPS standing and ad-hoc appointments. The documents that are used for internal processing will be posted on the FPSW Justice Intranet site.

Civil Litigation

I agree. Standard letters of appointment for both standing and ad hoc legal agents in civil matters are available along with terms and conditions documents which establish the relationship between the Department of Justice and legal agents.

In the context of civil agent program renewal, options are being studied to ensure that the principles of transparency and accountability are reflected in the selection, appointment and management of legal agent activities. Changes are expected in the areas of operations, financial management and policy. Requirements regarding appointment documentation, including terms and conditions relevant to appointments, will be revisited and appropriately addressed, as the implementation of renewed practices and supporting structures and systems are identified and rolled out.

33. It is recommended that the AAU Executive Director consider asking FPS agents to certify their number of years at the bar in their acceptance letter.57

I agree this could be considered. Asking for agent certification of their number of years at the bar may be a consideration because it is cost effective. However, we still would have to verify the accuracy of the information provided by the agents using the Canadian Law List book.

34. It is recommended that the AAU Executive Director and the Assistant Deputy Attorney General, Civil Litigation, ensure that counsel reviewing accounts are provided with clear instructions that state that verification should be rigorous and amounts claimed reduced if warranted.58

FPS

I agree. Case cost estimates are fundamental to managing agent fees & disbursements. For FPS cases, the AAU plans to develop estimates based on benchmarking that will be integral to the account review process and financial forecasting. The iCase system, when operational, will provide the data needed to achieve this goal.

Civil Litigation

I agree. The revised Civil Litigation Deskbook Chapter on agents provides Justice counsel with direction on the account verification and payment processes. To support a more consistent and rigorous approach to the account verification process, national standards and supporting checklists and guidelines will be developed and documented for implementation by September 2004.

In the context of civil agent program renewal, options are being considered which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. This would ultimately allow for the development of system controls, and, more extensive tracking of agent activities and associated costs, which would support the development of benchmarks and the production of more comprehensive reports. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from the program renewal. All relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

35. It is recommended that the AAU Executive Director provide guidelines on the types of cases that require cost estimates, who is responsible for making the estimates, and processes to follow when the estimates are exceeded.....59

I agree. This is a long-term project that will underpin the Agent Affairs Program's management control framework. Again, we are dependant on the iCase system for the management information needed to accomplish this goal.

36. It is recommended that the AAU Executive Director ensure that agent supervisors are made aware of the procedures for terminating agents.....59

I agree. The Minister has both the authority to appoint and terminate agents. In the past, based on a recommendation from ASUs, certain agents have been terminated. It may be more desirable to have a national understanding of (1) an unacceptable quality of agent-provided legal service and (2) an unacceptable cost of an agent-provided legal service that would lead toward a recommendation for termination. It should be noted that the procedures are fully described in the FPS Deskbook. This is an issue of awareness.

37. It is recommended that the Executive Director, AAU in consultation with the Accounting Services Manager ensure that CARFs require only essential information and that all of the necessary information be entered on the form.....61

We agree. Recently the AAU has developed new guidelines for the preparation of accounts and CARFs. These guidelines are in the new Terms and Conditions.

38. It is recommended that the Accounting Services Manager clarify that LCSS has the authority and ensure that the LCSS signs a document assigning the cases to ad hoc FPS agents.....61

We agree. This issue has been identified as one of the items to be addressed in the department's current review of signing authorities.

39. It is recommended that the Accounting Services Manager ensure that CARFs and other documents provided to agents are provided in electronic format, preferably in more than one text processing format so that they can use different software such as Microsoft Word, WordPerfect, and rich text format.61

We agree. The AAU, in consultation with the LCSS, has recently completed the preparation of all required agent forms in a number of different formats. The regional Agent Supervisors have been provided with these templates for transmission to any agent who may request them.

40. It is recommended that the AAU Executive Director ensure that appointment letters are reviewed periodically to identify those that do not include case and billing numbers and that corrective steps are taken wherever necessary.....62

I agree. All ad hoc appointments should make reference to a case and billing number. This is an area that could be addressed in a standard letter to ad hoc agents.

41. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, ensure that:63

a) Guidelines are provided on who should prepare cost estimates and how these are to be prepared.

I agree. In accordance with current practices and procedures, information pertaining to projected costs must be provided with respect to all requests for appointment approval. As enhanced data collection and integrity become available, benchmarking will be developed where applicable, as will guidelines to provide an additional level of guidance and support in ensuring a more consistent, efficient and effective approach to preparing cost projections. It is recognized, however, that there will remain an element of difficulty in establishing such standards given the diverse nature of civil work.

In the context of civil agent program renewal, options for change are being considered which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. This would ultimately allow for the development of the analytical and comparative information required to support benchmarking by providing for the development of system controls, implementation of a standard litigation code set, more extensive tracking of agent activities and associated costs, and, production of more comprehensive reports. As the implementation of renewed practices and supporting

structures and systems are identified and rolled out, benchmarking as well as national standards and guidelines for estimating costs will be developed. The Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from the program renewal and all relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

b) The current draft form for requesting agent assignments is finalized and used.

I agree. The use of the electronic Civil Legal Agent Ad Hoc Appointment Approval form (CLAAF) was widely implemented in August 2002. This form, as well as the corresponding completion instructions may be accessed on the Civil Litigation JUSnet site and downloaded on a user's desktop as a template.

In the context of civil agent program renewal, options are being studied to ensure that the principles of transparency and accountability are reflected in the selection, appointment and management of legal agent activities. Changes are expected in the areas of operations, financial management and policy. Requirements regarding appointment approval documentation and supporting tools, will be revisited and appropriately addressed, as the implementation of renewed practices and supporting structures and systems are identified and rolled out.

c) Procedures are provided for the termination of agents.

I agree. Legal agents are advised by way of their letter of appointment, that appointments are at the pleasure of the Minister of Justice and Attorney General of Canada, and, as such may be terminated at any time. The revised Civil Litigation Deskbook Chapter on agents provides direction to Justice counsel as to the requirement to monitor and manage legal agent activities following appointment, and the action and reporting required where concerns are raised regarding an agent's conduct and/or the requirement for termination.

In the context of civil agent program renewal, options are being studied to ensure that the principles of transparency and accountability are reflected in the selection, appointment and management of legal agent activities. Changes are expected in the areas of operations, financial management and policy. Requirements regarding the development of criteria and more detailed procedures for termination will be revisited as the implementation of renewed practices and supporting structures and systems are identified

and rolled out. The Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect resulting changes.

d) Efforts are continued to reduce the numbers of agents starting work with only verbal appointment.

I agree. The revised Civil Litigation Deskbook agent chapter provides clear direction as to the policies and procedures pertaining to the appointment of legal agents, the requirement for prior approval of the Minister in each case, and, the requirement for instructing counsel to confirm all agent appointments in writing. Active steps have been taken to communicate these policies and procedures to stakeholders and to educate them as to the need to provide sufficient lead-time to allow for appropriate follow-up action and the appointment and remuneration approval processes. As well, the additional FTEs added to the appointment coordinator's office since the conclusion of the auditor's research (i.e., one FTE added to assist the Agent Appointment Coordinator in September 2002 and a dedicated civil Agent Appointment Coordinator position created and filled in April 2003), has contributed towards reducing the operational delays associated with the appointment process.

In the context of civil agent program renewal, options are being studied to ensure that the principles of transparency and accountability are reflected in the selection, appointment and management of legal agent activities. Changes are expected in the areas of operations, financial management and policy. The development of an implementation plan and supporting business case are in progress to move forward with renewed practices and supporting structures and systems. The policies and procedures pertaining to the appointment of legal agents will be revisited, revised and appropriately documented and communicated as the program renewal evolves. The Civil Litigation Deskbook Chapter on Agents will be revised in a timely fashion to reflect resulting changes.

e) Case and billing numbers are provided in time for the instructing counsel to include them in the appointment letters.

I agree. The practice adopted by the Agent Appointment Coordinator's office is to provide case and billing numbers to requestors along with appointment approval. Due to system processes outside the reach of the LPMU and circumstances associated with some files, delays may occur in generating case and billing numbers. Where, in order to meet operational demands, a letter of appointment must be sent prior to receiving the case and

billing numbers, it is the responsibility of the instructing counsel to ensure that the relevant numbers are conveyed to the agent under separate cover.

The additional FTEs added to the appointment coordinator's office since the conclusion of the auditor's research (i.e., one FTE added to assist the Agent Appointment Coordinator in September 2002 and a dedicated civil agent appointment coordinator position created and filled in April 2003), has contributed towards reducing the operational delays associated with the appointment process.

In the context of civil agent program renewal, options are being studied to ensure that the principles of transparency and accountability are reflected in the selection, appointment and management of legal agent activities. Changes are expected in the areas of operations, financial management and policy. Policies and procedures pertaining to the appointment of legal agents will be revisited and revised as required, in accordance with the identification and roll out of renewed practices and supporting structures and systems. The Civil Litigation Deskbook chapter on agents will be revised in a timely fashion to reflect all resulting changes.

42. It is recommended that the Accounting Services Manager ensure that:.....70

- a) All FPS non-drug accounts are signed by the appropriate enforcement officer or agent supervisor.**

We agree. This is a check performed as all non-drug accounts are received. LCSS has taken steps to ensure that copies of the signatures are placed on file.

- b) Accounts are certified by agents with the wording provided by the LCSS.**

We agree. The wording of the agent certification block has been finalized and the new forms have been adjusted to reflect this.

- c) All accounts are consistently verified and disbursement invoices received and checked as required.**

We agree. A basic check for compliance is being done for all accounts. With respect to disbursements all non-drug invoices are required to have proof of disbursement incurred for items over \$10.00, however, the JEF agents were advised that their disbursements were not required for drug accounts, therefore LCSS does not receive or review those. However, when one of these JEF drug files is selected for review, under the new verification process, copies of the disbursements are requested.

- d) The \$10 limit for the disbursement invoices be reviewed and a new limit be considered that permits a reasonable checking of the accounts.**

We agree. The LCSS is working with the AAU to address this limit and to increase it to a more practical level.

- e) Accounts are not changed for small amounts. A reasonable limit for changing the accounts should be set.**

We agree. The requirement to change accounts for less than a dollar is due to rounding differences between the agent's systems and IFMS. The current version of IFMS cannot be changed; however, we are working with them to see if this issue may be addressed in future versions.

- f) Accounts include the name of the students or paralegals for whom time is charged.**

We agree. This change has been implemented and all agents have been asked to comply. Accounts that do not comply will not be processed until the required information has been provided.

- g) Actions taken when reviewing accounts are properly documented and names of staff reviewing the accounts are clearly written.**

We agree. This has been implemented; the name of the LCSS verification clerk will now be clearly identified on the daily case record when changes have been made.

h) A complete account verification checklist is readily available.

We agree. The basic verification check has now been finalized and is being used for all agent accounts.

43. It is recommended that the Accounting Services Manager ensure that user requirements for iCase:72

a) Allow for a thorough checking of all the accounts.

We agree. Requirements have been provided by AAU and iCase is being built to allow the regional supervisors the tools to verify the accounts before they approve for payment.

b) Include tracking of account reductions to permit analysis and identification of agents making repeated errors.

We agree. Requirements have been provided by AAU and iCase will require all reductions to be noted, and a tracking report will be developed so that the information can be reviewed.

c) Allow for the entry of the names of students and paralegals.

We agree. Requirements have been provided by AAU and iCase has been built so that the names of all counsel, including students and paralegals, are mandatory.

44. It is recommended that the Accounting Services Manager ensure that:74

a) User requirements for iCase include faster processing of accounts.

We agree. iCase, because of automation, will at least be faster, due to the elimination of the time it takes for the invoices to be mailed to the LCSS. Further improvements beyond this may only come from a complete review of responsibilities and an examination of staffing levels.

b) FPS non-drug accounts are processed in 10 days or less.

We agree in principle. The LCSS, as part of a unit wide review of duties and staffing requirements, looked at how to improve turn-around time to the clients. The cost/benefit study indicated that the current highly manual process could not be improved markedly without a significant increase in resources. However, the move to iCase, with the future development of a link to IFMS will allow the LCSS to re-examine this issue then, with the hoped for improvement in processing times.

c) Known duplicate accounts and payments are recorded so they can be analyzed and action taken to decrease their incidence.

We agree. The LCSS will look at implementing a log so that these duplicates may be tracked.

d) User requirements for iCase include checks for duplicate charges and the ability to generate reports on possible duplicate charges received from agents.

We agree. Requirements have been provided by AAU and iCase has been developed to mitigate duplicates. Reports are being designed to show potential duplicates and a protocol will be developed for the utilization of these reports.

e) The process for recovering overpayments is defined so that recovered amounts are posted to the applicable case.

We agree in principle. This issue has been examined, and unfortunately current processes within IFMS do not allow this. In order for IFMS to be able to accomplish this task the AAP will first need to define all required benchmarks, develop case standards/cost estimates and then be able to define case durations. These tasks will not be completed in the short term, however, once that process has been accomplished, this issue will be resolved.

- f) There is an attempt to decrease the number of copies of accounts by providing more information on the letter given to client departments requesting account payment.**

We agree. This will require negotiations between the AAU and the various client departments. If the negotiations are successful the appropriate changes will be investigated and then implemented.

45. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, ensure that:78

- a) Checklists and guidelines are issued to facilitate the checking of accounts.**

I agree. Direction on the account verification process is included in the revised Civil Litigation Deskbook Chapter on agents, which has been updated to reflect evolved practices. To support a more consistent and rigorous approach to the account verification process, national standards and supporting checklists and guidelines will be developed and documented for implementation by September 2004.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. This would ultimately allow for the development of system controls, and, more extensive tracking of agent activities and associated costs, which would support the development of benchmarks and the production of more comprehensive reports. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from the program renewal. All relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

- b) Terms and conditions are consistently applied and disbursement invoices received are checked as required.**

I agree. Direction on the account verification process is included in the revised Civil Litigation Deskbook Chapter on agents, which has been updated to reflect evolved practices. To support a more consistent and rigorous approach to the account verification process, national standards and supporting checklists and guidelines will be developed

and documented for implementation by September 2004. Such standards will incorporate the requirement to ensure agent compliance with all terms and conditions of appointment throughout the account verification process.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. This would ultimately allow for the development of system controls, and, more extensive tracking of agent activities and associated costs, which would support the development of benchmarks and the production of more comprehensive reports. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from the program renewal. All relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

c) The \$10 limit for the disbursement invoices be reviewed and a new limit be considered that permits a reasonable checking of the accounts.

I agree that consideration should be given to establishing a revised dollar limit for those disbursements requiring supporting documentation as to proof of payment. The current memorandum of instructions, which along with the letter of appointment, forms the basis of the relationship between the agent and the Department of Justice, provides that individually itemized claims exceeding \$10.00 must be supported by proof of payment. These instructions do, however, permit the instructing officer to exercise a degree of flexibility and, on a case-to-case basis, to allow unsupported disbursements. Limits established in the context of account verification will be incorporated into the national standards and supporting system controls, which, as previously referenced, will be developed as program renewal evolves.

d) Instructions are issued on conditions for reducing accounts.

I agree that consideration should be given to the establishment of conditions for reducing accounts. Conditions established in the context of account verification will be incorporated into the national standards and supporting system controls, which, as previously referenced, will be developed as program renewal evolves.

e) A reasonable limit is set up under which changes are not made to accounts.

I agree that consideration should be given to the establishment of a limit under which changes will not be made to accounts. Limits established in the context of account verification will be incorporated into the national standards and supporting system controls, which, as previously referenced, will be developed as program renewal evolves.

f) A quality assurance process is established (which could be on a sampling basis) for reviewing accounts processed by instructing counsel, improving guidelines, and reducing accounts.

I agree. As previously indicated, direction on the account verification process is included in the revised Civil Litigation Deskbook Chapter on agents which has been updated to reflect evolved practices. To support a more consistent and rigorous approach to the account verification process, national standards and supporting checklists and guidelines will be developed and documented for implementation by September 2004. A quality assurance process will be developed for monitoring compliance with established standards.

As discussed in response to recommendation # 11, it is recognized that in order to report on progress against plans or performance measures, it is necessary to have an evaluation framework for comparison purposes. As such, work is underway with Justice Canada's Evaluation Division for the development of a results-based management and accountability framework (RMAF) to guide the civil agent program.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. This would ultimately allow for the development of system controls and more extensive tracking of agent activities and associated costs, which would support the development of benchmarks and the production of more comprehensive reports. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from the program renewal. All relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

g) Instructing counsel ensure that accounts are certified by agents with wording provided by the Department.

I agree. A prescribed Request for Payment form, which contains the requisite certification statement and signature line, is routinely provided to legal agents under cover of the letter of appointment. The standard letter of appointment as well as the revised Civil Litigation Deskbook chapter on agents provides that, in practice, agents can choose to use their firm's standard invoicing software provided all information required to complete the prescribed form, including the certification statement, is contained in their accounts.

To support a more consistent and rigorous approach to the account verification process, national standards and supporting checklists and guidelines will be developed and documented for implementation by September 2004. Such standards will incorporate the requirement to include the certification statement in all accounts.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, the requirements for tools to support electronic billing and the account verification process will be determined. Established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised accordingly to reflect changes resulting from the program renewal. All relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

h) A recommendation is issued to agents that they do not bill under a certain amount but bill at year-end or at the end of a case regardless of the amount.

I agree that consideration should be given to establishing a standard requirement for agents not to bill under a certain amount unless at year-end or at the end of a case. Civil Legal agents are required to submit accounts for services rendered on a case-by-case basis, in accordance with billing instructions provided in the letter of appointment. At the very least, legal agents submit their accounts upon completion of the work in question and/or at year-end.

Limits established in the context of billing requirements, will be incorporated into the national standards and supporting system controls, which, as previously referenced, will be developed as program renewal evolves.

- i) Instructing counsel use new stamps to approve the accounts and that the wording of the stamps better reflects the responsibility of instructing counsel and mentions that it is part of the section 34 approval as outlined in the *Financial Administration Act*. Alternatively, a letter with appropriate wording could be used instead of the stamp.**

I agree. The current practice is to forward accounts to clients for payment, under cover of “taxation” letters or memoranda. In light of this, the practice of affixing a taxing stamp to an account to reflect Justice instructing counsel’s recommendation for the financial authority to provide section 34 approval is no longer required nor widely used. Direction on the account verification and payment processes is included in the revised Civil Litigation Deskbook chapter on agents, which has been updated to reflect evolved practices.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase’s electronic billing component. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from program renewal. All relevant documentation will be incorporated into a manual into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

- j) Guidelines are provided to instructing counsel on when to hold back accounts exceeding the estimated total for the case.**

I agree. Procedures are in place to ensure that instructing counsel are aware of the requirement to monitor costs against projections, and, the action and reporting required to notify the LPMU where costs exceed, or are expected to exceed, original projections. Direction on monitoring costs against projections is included in the revised Civil Litigation Deskbook chapter on agents, which has been updated to reflect evolved practices.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component, and ultimately allow for the development of system controls and more extensive tracking of agent activities and associated costs. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from program renewal. All relevant documentation will be incorporated into a manual into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

- k) Instructing counsel keep case records of costs-to-date and ensure that when costs are exceeded an explanation and a new estimate is sent to the LCSS. The LCSS should advise the LPMU of these cases.**

I agree. In practice, some instructing counsel do maintain records of accounts received and total-to-date costs, which supports the monitoring, and controlling of overall costs per case. Procedures are in place to ensure that instructing counsel are aware of the requirement to monitor costs against projections, and, the action and reporting required to notify the LPMU where costs exceed, or are expected to exceed, original projections. The function currently provided by LCSS (AAU) with respect to civil accounts includes notifying the LPMU of those files for which the total accounts received and recorded to date exceed the specified projections. Direction on monitoring costs against projections is included in the revised Civil Litigation Deskbook chapter on agents, which has been updated to reflect evolved practices.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component, and ultimately allow for the development of system controls and more extensive tracking of agent activities and associated costs. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from program renewal. All relevant documentation will be incorporated into a manual into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

l) Instructing counsel know to seek advice from the LPMU on how to correct a situation when an agent deals directly with the client or sends accounts directly to the client.

I agree. The standard letter of appointment package provides agents with clear instructions on the appropriate preparation and routing of accounts for verification and payment. The Civil Litigation Deskbook chapter on agents, which has been updated to reflect evolved practices, provides direction to instructing counsel as to the instructions to be provided to legal agents in this regard. As well, active steps have been taken to educate stakeholders as to the assistance provided by LPMU with regard to the activities performed by instructing counsel in the overall management of the Civil legal agent activities.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from program renewal. All relevant documentation will be incorporated into a manual into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

m) Consideration is given to having instructing counsel issue a letter to agents when they approve payments shared by departments, with the individual amounts before and after GST provided to facilitate agents' identification of payments.

I agree. As previously indicated, all original taxed accounts are submitted to the responsible client department for payment under cover of a standard "taxation" letter/memorandum. A copy of the letter or memorandum is forwarded to the legal agent as a means of providing notification that the account has been reviewed and sent to the appropriate client for payment. Direction on the account verification and payment processes is provided in the Civil Litigation Deskbook chapter on agents, which has been updated, to reflect evolves practices.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. As the implementation of renewed practices and supporting

structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from program renewal. All relevant documentation will be incorporated into a manual into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

46. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, ensure that a iCase user requirements for the civil agent program specify the ability to track reductions for each account to permit analysis of reductions and identification of agents making repeated errors.85

I agree. All legal agent requirements, for both FPS and Civil operations, have been identified and incorporated into the current version of iCase. Albeit, only limited expenditure information from civil agent accounts will be entered into iCase at the initial stages of implementation, it is my understanding that the functionality of the billing component will provide for the recording of reductions. The relevant reports to track such changes have been defined and identified in the user requirements; however, they will only be developed as part of subsequent rollouts to Phase I.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase’s electronic billing component. This would ultimately allow for the development of system controls and more extensive tracking of agent activities and associated costs, which would support the development of benchmarks and the production of more comprehensive reports. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from the program renewal. All relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

47. It is recommended that the Assistant Deputy Attorney General, Civil Litigation review the current holding of civil agent accounts that exceed original estimates and try to arrive at a simpler process for data entry of accounts that exceed estimates.85

I agree. In the context of the function provided by LCSS (AAU) with respect to civil agent accounts, which is discussed in response to recommendation #5, LCSS (AAU) has

implemented a process whereby the system will accept the data entry of an account, which exceeds the projections recorded in the system. As well, as indicated in recommendation 45(j), procedures are in place to ensure that instructing counsel are aware of the requirement to monitor costs against projections, and, the appropriate action and reporting required to notify the LPMU where costs exceed, or are expected to exceed, original projections. Direction on monitoring costs against projections is included in the revised Civil Litigation Deskbook chapter on agents, which has been updated to reflect evolved practices.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component, and ultimately allow for the development of system controls and more extensive tracking of agent activities and associated costs. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, the continued requirement for the function currently provided by LCSS (AAU) with respect to civil agent accounts, will be revisited. System controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from program renewal. All relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

48. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, ensure that:87

- a) Instructing counsel process accounts within a specified time period considering that client departments also need time to process accounts and that the government requires suppliers be paid within 30 days.**

I agree. Direction on the account verification and payment processes is provided in the Civil Litigation Deskbook Chapter on agents, which has been updated to reflect evolved practices. To support a more consistent and rigorous approach to the processing of agent accounts, national standards and supporting checklists and guidelines will be developed and documented for implementation by September 2004. Such standards will incorporate established requirements for the timely processing of accounts.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component. As the implementation of renewed practices and supporting structures and systems are identified and rolled out, system controls will be developed,

and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from program renewal. All relevant documentation will be incorporated into a manual into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

b) Records are kept of known duplicate payments, responsible persons notified and, where possible, corrective actions taken to eliminate them.

I agree, although, historically this has not been a problem. Direction on the account verification and payment processes is provided in the Civil Litigation Deskbook Chapter on agents, which has been updated to reflect evolved practices. The responsibility for account verification rests with various instructing counsel and is conducted on a case-by-case basis. In practice, some instructing counsel do maintain records of accounts received and total-to-date costs which facilitates the identification of duplicate accounts during the account verification process, and, thereby avoids the further processing and submission of same for payment. The Departmental financial management system has checks, albeit limited, for duplicate payments of Justice paid accounts. Where accounts are submitted to other government departments to issue payment, we have very limited control over the payment process at their end. The current data entry function provided by LCSS (AAU) provides for a further opportunity to identify where a duplicate account has perhaps slipped by and been sent to another government department for payment.

To support a more consistent and rigorous approach to the processing of agent accounts, national standards and supporting checklists and guidelines will be developed and documented for implementation by September 2004. Such standards will incorporate the procedures required to monitor for duplicate payments and maintain records, and, the appropriate action and reporting required where duplicate payments are in fact recognized.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component, and ultimately allow the development of system controls and more extensive tracking of agent activities and associated costs. As the implementation of new practices and supporting structures and systems are identified and rolled out, system controls will be developed, and, established standards, supporting checklists and guidelines, as well as the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from program renewal. All relevant

documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

c) Records are kept of the number of questions received about unpaid accounts (and their resolution).

I agree, however, given the number of Justice counsel currently involved in the review of accounts, this would be difficult to implement and monitor. As well, in practice, where an account has been taxed and sent for payment, the agent is referred to the appropriate client contact for any follow-up. With the creation of national standards and a national framework as referenced above, procedures for reporting such queries may be established and a network implemented to facilitate the sharing of such information.

In the context of civil agent program renewal, options for change are being studied which would support full integration and connectivity of civil legal agents to iCase's electronic billing component, and ultimately allow the development of system controls, more extensive tracking of agent activities and associated costs and, the production of more comprehensive reports. As the implementation of new practices and supporting structures and systems are identified and rolled out, system controls will be developed, established standards, supporting checklists and guidelines, and the Civil Litigation Deskbook agent chapter will be revised in a timely fashion to reflect changes resulting from the program renewal. All relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

49. It is recommended that the Accounting Services Manager ensure that the process to record closed cases in the IFMS is continued.....89

We agree. The IFMS team has provided additional tools to facilitate this process. We are currently waiting for an implementation of a new definition on closed cases to be forwarded to the agents before continuing the closing of cases in IFMS.

50. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, in consultation with the Finance, Administration and Program Directorate, ensure that the authority of instructing counsel and departmental managers (with financial authority) to sign appointment letters be clearly outlined in departmental policies or manuals.....92

I agree. Consultations and studies have been ongoing with respect to the appointment of legal agents and the establishment of revised policies and procedures to further support operational demands while increasing management controls. Further to discussions with the Finance, Administration and Program Directorate, the delegation of signing authorities required to effectively support such management controls is documented accordingly in the revised Delegation of Financial Signing Authorities Chart and supporting notes.

In the context of civil agent program renewal, options are being studied to ensure that the principles of transparency and accountability are reflected in the selection, appointment and management of legal agent activities. Changes are expected in the areas of operations, financial management and policy. The development of an implementation plan and support business case are in progress to move forward with renewed practices and supporting structures and systems. Management controls as well as related policies and procedures will be revisited and revised as required, as program renewal evolves. The Civil Litigation Deskbook chapter on agents will be revised in a timely fashion to reflect all resulting changes and relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

51. It is recommended that the AAU Executive Director obtain written approval from the Minister for the AAU's authority to select ad hoc agents for low dollar value assignments. The document should also define required approval when there are significant changes to the appointment or cost of the case.....92

I agree. We currently obtain verbal approval and a note to file is prepared by the Appointment Coordinator to that effect. We intend to discuss this issue with Minister's office staff to obtain clear direction on these matters.

52. It is recommended that the AAU Executive Director, in consultation with the Finance, Administration and Program Directorate, ensure that the process and authorities for approving FPS accounts meets the requirements of section 34 of the *Financial Administration Act* and is documented in departmental policies or manuals.....94

I agree. The legal account verification process is designed to not only verify the correctness of certain purported facts, (e.g. fee rate) it incorporates an ongoing audit to determine whether accounts meet the requirements of section 34 of the *Financial Administration Act*. The audit presumes a level of financial risk associated with case cost, not accounts, and this is an important distinction because accounts are approved before the case cost is determined. Some accounts are pulled before the case cost reaches a predetermined point, based on a financial risk assessment, but most accounts are subject to an after-the-fact review.

The AAU and the LCSS are implementing an account review process across the country whereby the reasonableness of agents accounts will be determined, on a statistical basis, based on the responsible agent supervisor's review of the accounts/cases. We intend to have this procedure in place by the end of 2003/2004 fiscal year.

53. It is recommended that the Assistant Deputy Attorney General, Civil Litigation, in consultation with the Finance, Administration and Program Directorate, ensure that the process and authorities for approving civil accounts meets the requirements of section 34 of the *Financial Administration Act* and is documented in departmental policies or manuals.....94

I agree. Consultations have been ongoing with respect to the account verification process and the establishment of revised policies and procedures, which will further respond to financial concerns, meet operational demands and increase management controls. Further to discussions with the Finance, Administration and Program Directorate, the delegation of signing authorities required to effectively support such management controls is documented accordingly in the revised Delegation of Financial Signing Authorities Chart and supporting notes.

In the context of civil agent program renewal, options are being studied to ensure that the principles of transparency and accountability are reflected in the selection, appointment and management of legal agent activities. Changes are expected in the areas of operations, financial management and policy. The development of an implementation plan and support business case are in progress to move forward with renewed practices and supporting structures and systems. Management controls as well as related policies and procedures will

be revisited and revised as required, as program renewal evolves. The Civil Litigation Deskbook chapter on agents will be revised in a timely fashion to reflect all resulting changes and relevant documentation will be incorporated into a manual and communicated through the Civil Litigation Branch JUSnet site as well as through training.

54. It is recommended that the AAU Executive Director and the Accounting Services Manager discuss with agent supervisors how to make the list of new cases useful.97

We agree. In recent months the Systems Manager and the AAU have worked with the agent supervisors and have streamlined and enhanced the information package, which is sent to the regions on a monthly basis.

The list of new cases is an input into the determination of the agent’s current active case inventory, which is the objective. Determining the active case inventory also relies on a list of closed cases, which is an ongoing project.

55. It is recommended that the AAU Executive Director recommend that Regional Directors ensure that agent supervisors participate in the review of case samples.....100

I agree. The AAU Executive Director will recommend that Regional Directors ensure that agent supervisors participate in the review of case samples.

56. It is recommended that the AAU Executive Director and the Accounting Services Manager implement a process whereby low dollar value cases are selected for review using a dollar sampling technique.....101

We agree. This is the long-term goal of the audit process. However, at this time the required tools such as benchmarking are not yet fully developed or in place. Once that process has begun we will investigate the cost / benefit of implementing dollar unit sampling and changing the audit/verification processes over to that method, supplemented with other sampling methods, if required.

Once the sample is pulled for review, it is mandatory that the Agent Affairs Program have the resources to review the sample on a timely basis. This situation does not currently exist.

57. It is recommended that the Accounting Services Manager ensure that:.....101

- a) Agent supervisor’s certification wording (for reasonableness) for statistical samples is improved.**

We agree. This has been implemented and a standardized wording is now utilized.

- b) All checking and actions taken further to the sample reviews are properly documented and that the LCSS staff properly sign verification forms.**

We agree. This has been done.

- c) A standard recovery process is defined for overpayments.**

We agree. The recovery process for overpayments has been defined and implemented.

- d) The LCSS’s checking of lawyers’ fees is improved.**

We agree. The fee rate checking has been improved, and iCase has been built to check this automatically.

- e) Agents submit disbursement invoices with all applicable accounts and according to the limits set by the Department.**

We agree. This, as noted in recommendation 42-c, is being done for all non-JEF accounts. However, we are in discussions with the AAU as to how this will be done in the future all-electronic world of iCase.

58. It is recommended that the AAU Executive Director ensure that better tools, such as benchmarks, for agent supervisors and AAU staff are provided to assist in the verifying of accounts.102

I agree. The development of better tools to assist in the verifying of accounts is a priority for the program. The iCase system should provide the basic case information necessary to achieve this goal.

59. It is recommended that the AAU Executive Director ensure that written procedures are provided to agent supervisors on how to verify accounts.102

I agree. The account review process conducted by Agent Supervisors is a pilot project that exists in Toronto and the Ottawa-Gatineau offices. Once the “lessons learned” are gathered and, assuming sufficient Agent Supervisor resources exist to roll the review process out across the country, a policy & procedures document will be issued.

60. It is recommended that the AAU Executive Director and the Accounting Services Manager ensure that up-to-date written procedures are developed for the statistical case verification process.102

We agree. As the case verification and audit process matures from the current pilot phase into full implementation, a comprehensive set of procedures will be compiled and published.