



Department of Justice
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Ministère de la Justice
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**AUDIT OF BUSINESS AND
REGULATORY LAW –
BRITISH COLUMBIA REGIONAL OFFICE**

October 03, 2012

Internal Audit Branch

Canada



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STATEMENT OF CONFORMANCE AND ASSURANCE

We have completed the internal audit of Business and Regulatory Law - British Columbia Regional Office at the Department of Justice. The overall objective of the audit was to assess the management framework within which the BCRO BRLP delivers services to its clients.

This audit conforms to the Internal Auditing Standards for the Government of Canada, as supported by the results of the quality assurance and improvement program.

In our professional judgment, sufficient and appropriate audit procedures have been conducted and evidence gathered to support the accuracy of the conclusion provided and contained in this report.

The conclusion is based on a comparison of the conditions, as they existed at the time of the audit (February 2012 – July 2012), against pre-established audit criteria that were derived from the TBS Management Accountability Framework as well as TBS audit guides.

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Date



EXECUTIVE SUMMARY

Conclusion

- 1 The Department of Justice British Columbia Regional Office (BCRO) Business and Regulatory Law Portfolio (BRLP) has overall an adequate management framework in place to deliver services to its clients.
 - 2 Recommendations for improvements at the BCRO BRLP include: clarifying the roles and responsibilities of paralegals; and, reviewing administrative duties with a goal of streamlining processes to become more efficient. The requirement for improvement in these areas has led to the recommendations in this report.
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Introduction

- 3 The Business and Regulatory Law Portfolio (BRLP) provides legal services to government clients whose mandates have a strong regulatory or business law component. In the British Columbia Regional Office (BCRO) the BRLP consists of two sections: Advisory Services and Litigation.
- 4 This audit was identified in the *2011-12 Internal Audit Plan*. The overall objective of the audit was to assess the management framework within which the BCRO BRLP delivers services to its clients including:
 - the governance, policies, practices, and procedures relating to planning, organizing, controlling, leading, and communicating;
 - the reliability of information systems for decision-making and accountability purposes;
 - the risk and legal file management and forecasting demand for legal services;
 - the appropriateness of interfaces with other Department of Justice sectors and client departments/agencies; and,
 - the level of client satisfaction with the legal services provided.



Key Findings

- 5 The audit team observed the following areas where the management framework is properly designed and applied effectively:
 - The BCRO BRLP has effective governance and adequate strategic direction evidenced by several committees; formal and informal meetings which take place on a regular basis; strong leadership and good communication strategies; and relatively high staff satisfaction levels.
 - The BCRO BRLP has a thorough business planning process, adequate controls over legal workload management, and adequate compliance monitoring processes.
 - The reliability of information systems for decision-making and accountability at the BCRO BRLP is adequate.
 - The BCRO BRLP has adequate processes for legal workload management. The assignment and monitoring of workload for high risk legal files is done through the File Assignment Committee, which has been identified as a strength.
 - There are adequate interfaces between the BCRO BRLP, its national counterparts and other sectors. There is interaction and communication between the groups through a variety of regional and national committees and meetings.
 - BCRO BRLP's clients are satisfied with the level of service that is provided.

- 6 The audit team also identified the following areas requiring improvement:
 - The roles and responsibilities of paralegals in the BCRO BRLP vary depending on the counsel assigned.
 - New legislative and policy requirements have resulted in an increased number of administrative duties and reporting requirements within the BCRO BRLP.

1.0 INTRODUCTION

1.1 Background

- 8 Under the *Department of Justice Act*, the Department is responsible for the legal affairs of the Government as a whole and is to provide legal services to individual departments and agencies. As a result, all government departments and agencies, referred to as “clients”, with few exceptions, must obtain all of their legal services through the Department of Justice (DOJ). Legal services are delivered through Departmental Legal Service Units (DLSUs) that are co-located with clients; national functional specialists; and, regional functional specialists located at each of the six regional offices.
- 9 In the British Columbia Regional Office (BCRO), located in downtown Vancouver, the region’s approximately 500 staff work together to deliver a broad range of legal services to federal government departments and agencies throughout the province and, where BCRO counsel have the lead, throughout the rest of the country. The Business and Regulatory Law Portfolio (BRLP) provides these services to clients whose mandates have a strong regulatory or business law component. In the BCRO, the BRLP consists of two sections: Advisory Services and Litigation. Line authority for these sections rests with the Regional Director General for the BCRO, while functional authority rests with the Assistant Deputy Minister, BRLP. Both the Regional Director General and the Assistant Deputy Minister, BRLP report to the Associate Deputy Minister.
- 10 The Advisory Services Section provides legal advice on a wide range of topical issues with a focus on property and commercial transactions to various federal government departments, including Fisheries and Oceans, National Defence, Parks Canada, Public Works and Government Services Canada, Transport Canada, and Western Economic Diversification. The Section possesses expertise in aboriginal law, administrative law, commercial law, contract law, construction law, environmental law, fisheries law, maritime law and real property law. The Advisory Services Section consists of approximately 19 counsel and 9 support staff.
- 11 The Litigation Section represents the Attorney General of Canada in civil litigation and provides clients in the Business and Regulatory Law Portfolio, Central Agencies Portfolio and Justice Portfolio with a wide range of litigation services in a broad spectrum of fields. The main areas of focus include government liability, constitutional and administrative law, regulatory law, human rights, environmental and privacy law. Counsel represent the Crown in court proceedings before the British Columbia Supreme Court, British Columbia Court of Appeal, the Federal Courts and various administrative tribunals. This section is comprised of roughly 34 counsel and 36 support staff.

1.2 Audit Objective and Scope

- 12 This audit was identified in the *2011-12 Internal Audit Plan*. The overall objective of the audit was to assess the management framework within which the BCRO BRLP delivers services to its clients including:
- the management framework (policies, practices, and procedures relating to planning, organizing, controlling, leading, and communicating);
 - the reliability of information systems for decision-making and accountability purposes;
 - the risk and legal file management and forecasting demand for legal services;
 - the appropriateness of interfaces with other departmental sectors and client departments/agencies; and,
 - the level of client satisfaction with the legal services provided.
- 13 The planning and on-site examination phases of the audit were carried out between February and June, 2012. The on-site detailed examination was undertaken at the British Columbia Regional Office in Vancouver.

1.3 Risk Assessment

- 14 The initial risk assessment conducted during the planning phase identified the following potential risks in the administration of the BCRO BRLP:
- The risk that the absence of established, effective oversight bodies, with a clearly communicated mandate, including clear roles with respect to governance, risk management and control may lead to ineffective management practices.
 - The risk that the BCRO BRLP may not achieve its strategic objectives due to not having effective operational plans in place.
 - The risk that human resource planning may not be aligned with strategic and business planning.
 - The risk that there may be inconsistencies and inefficiencies in the delivery of advisory and litigation services as a result of ineffective interfaces with other Department of Justice organizations and clients.
 - The risk that the planning and resource allocations may not consider the relevant risk factors (Prioritization, Timeliness and Resource Allocation).

1.4 Audit Criteria

- 15 Audit criteria were developed in consideration of the risks identified during the planning phase of the audit and were derived from TBS guidance on auditing management frameworks provided in the “*Core Management Controls: A Guide for Internal Auditors*”.
- 16 For an overview of the audit criteria, see *Appendix A*.

1.5 Approach and Methodology

- 17 The approach and methodology used for the audit were consistent with the Internal Audit standards as outlined by the Institute of Internal Auditors and were aligned with the Treasury Board (TB) *Policy on Internal Audit* and related guidelines and procedures.
- 18 A detailed description of the approach and methodology is outlined in *Appendix C*.

1.6 Key Findings

- 19 The audit team observed the following areas where the management framework is properly designed and applied effectively:
- The BCRO BRLP has effective governance and adequate strategic direction evidenced by several committees; formal and informal meetings which take place on a regular basis; strong leadership and good communication strategies; and relatively high staff satisfaction levels.
 - The BCRO BRLP has a thorough business planning process, adequate controls over legal workload management, and adequate compliance monitoring processes.
 - The reliability of information systems for decision-making and accountability at the BCRO BRLP is adequate.
 - The BCRO BRLP has adequate processes for legal workload management. The assignment and monitoring of workload for high risk legal files is done through the File Assignment Committee, which has been identified as a strength.

- There are adequate interfaces between the BCRO BRLP, its national counterparts and other sectors. There is interaction and communication between the groups through a variety of regional and national committees and meetings.
- BCRO BRLP's clients are satisfied with the level of service that is provided.

20 The audit team also identified the following areas requiring improvement:

- The roles and responsibilities of paralegals in the BCRO BRLP vary depending on the counsel assigned.
- New legislative and policy requirements have resulted in an increased number of administrative duties and reporting requirements within the BCRO BRLP.

1.7 Strengths Identified

21 Amongst the various strengths identified during the audit, one of particular note was the File Assignment Committee (FAC). As of September 2008, assignments to all new files with high risk assessments are made by the FAC. The FAC consists of the Regional Director General, the Legal Risk Management counsel and the senior legal managers. The assignment process considers the skills, experience, capacity, workloads, and interests of counsel in the office. This ensures that the counsel assigned to these files are those best suited and provides opportunities for counsel interested in working on files outside of their sections with opportunities to do so. In addition, this process enhances the BCRO's ability to develop a cadre of counsel with a broad range of skills and experience.

2.0 FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSES

2.1 Organization

Audit Criterion: An appropriate governance and organizational structure is established, communicated and conducive to the achievement of objectives and operational requirements. [Audit Criterion 1.0]

Key Finding: The roles and responsibilities of paralegals in the BCRO BRLP vary depending on the counsel assigned.

- 22 Ensuring that all staff have a clear understanding of their roles and responsibilities is essential to employee engagement and organizational success.
- 23 Management and staff at the BCRO BRLP indicated that, in general, the organizational structure of the sections works well, that the roles are clearly established and well communicated, and that their job descriptions mirror their actual jobs and responsibilities.
- 24 However, interviews with paralegals and lawyers indicated that paralegals' roles and responsibilities vary depending on the counsel assigned. Paralegals perform a variety of tasks under the guidance of a legal professional including research, compiling documents, drafting various procedures and creating court files. Many counsel seemed unsure of the roles and the paralegals' ability to perform tasks on the file. This issue was also raised by paralegals in a survey conducted in 2010 by the Regional Law and Litigation Committee (RLLC).
- 25 Lack of clarity on the roles and responsibilities of paralegals could detrimentally affect both individual and organizational performance.

Recommendation and Management Response

It is recommended that the Regional Director General, British Columbia Regional Office ensure that the roles and responsibilities of paralegals within the BCRO BRLP are reviewed, clarified and communicated. (Low Risk)

Agreed. The Regional Director General, British Columbia Regional Office will ensure that the Director, Business and Regulatory Law – Advisory, and the Director, Business and Regulatory Law – Litigation:

- i. review the roles of paralegals (EC-01 – EC-05) with the Senior Paralegal Coordinator (Targeted Completion Date: October 01, 2012);
- ii. mandate and supervise the delivery of training for counsel and paralegals on best practices for effective use of paralegals (Targeted Completion Date: October 31, 2012); and,
- iii. draft and distribute a BCRO BRLP protocol of roles and responsibilities for ECs and for EC file assignment (Targeted Completion Date: November 30, 2012).

2.2 Controlling

Audit Criterion: Resources (human, financial and material) are properly planned, managed and supported. [Audit Criterion 3.0]

Key Finding: New legislative and policy requirements have resulted in an increased number of administrative duties and reporting requirements within the BCRO BRLP.

- 26 Effective workload management supports the attainment of organizational objectives by appropriately aligning resources and business processes in a dynamic environment.
- 27 The BCRO BRLP has adequate processes for legal workload management. The assignment and monitoring of workload for high risk legal files is done through the File Assignment Committee and this process has been identified as a strength.
- 28 With respect to administrative workload management, an Administrative Liaison Committee (ALC) exists, which is comprised of section administration managers who meet monthly to discuss common issues, new policies and operational, reporting or procedural changes in areas such as finance, purchasing, administration, information management, and information technology.
- 29 While the ALC is making efforts to address administrative workload management issues, the continually increasing number of administrative duties and reporting requirements is an area of concern. New legislation and policy requirements have led to new processes, as well as, increased requirements for compliance and accountability. However, the BCRO BRLP has not reviewed its business processes in recent years to assess their relevancy or to determine if the various tasks could be done more efficiently. There is a risk that increased administrative workload pressures may have a negative impact on work quality and may affect the ability of the BCRO BRLP to achieve its objectives and mandate.

Recommendation and Management Response

It is recommended that the Regional Director General, British Columbia Regional Office ensure that existing administrative duties are reviewed with a goal of streamlining processes to become more efficient. (Low Risk)

Agreed. The Regional Director General, British Columbia Regional Office will ensure that the Director, Business and Regulatory Law – Advisory, and the Director, Business and Regulatory Law – Litigation:

- i. review administrative duties by developing an inventory log and directing staff to catalogue all administrative tasks performed (Targeted Completion Date: October 15, 2012);
- ii. analyze and prioritize tasks to determine any gaps between resources and staffing levels including appropriate levels of delegation (Targeted Completion Date: December 31, 2012); and,
- iii. communicate and implement any necessary changes as a result of the review and analysis (Targeted Completion Date: January 15, 2013).

3.0 CONCLUSION

- 30 The Department of Justice British Columbia Regional Office (BCRO) Business and Regulatory Law Portfolio (BRLP) has overall an adequate management framework in place to deliver services to its clients.
- 31 The management framework provides for effective governance; risk assessment, legal file management, and forecasting of demand for legal services; reliable information systems for decision making and accountability; appropriate interfaces with other sectors of the Department and client departments; and, an adequate level of client satisfaction with the legal services provided.
- 32 Recommendations for improvements at the BCRO BRLP include: clarifying the roles and responsibilities of paralegals; and, reviewing administrative duties with a goal of streamlining processes to become more efficient. The requirement for improvement in these areas has led to the recommendations in this report.

APPENDIX A – AUDIT CRITERIA

The following audit criteria were developed during the planning phase of the audit and included relevant criteria to address specific risks identified in the planning phase. They were derived from TBS guidance on auditing management frameworks provided in the “*Core Management Controls: A Guide for Internal Auditors*”.

Audit Criteria	Results
1.0 An appropriate governance and organizational structure is established, communicated and conducive to the achievement of objectives and operational requirements.	Partially Met
2.0 Accountability is clear and management has reliable information that supports decision-making and accountability including measurement systems.	Met
3.0 Resources (human, financial and material) are properly planned, managed and supported.	Partially Met
4.0 Policies, other relevant tools and training (i.e. operating manuals) have been developed to support the delivery of services and disseminated to staff.	Met
5.0 Reliable information systems are in place for decision-making and accountability.	Met
6.0 Effective legal risk management practices are in place.	Met
7.0 Legal file management is effective using iCase.	Met
8.0 Effective interfaces with other Justice Canada Sectors and client departments are maintained.	Met
9.0 A high level of client department satisfaction with services provided is monitored and maintained.	Met

APPENDIX B – RISK ASSESSMENT GUIDELINES*

Assessment	Significance Level and Impact
High	<p><u>Immediate Management Attention Required</u></p> <p>IMPACT:</p> <ul style="list-style-type: none"> • Weaknesses exist that could impact the Department’s financial statements, reputation and/or the Department’s goals or objectives. • Weaknesses could impact the Department’s efficiency and effectiveness of operations. • Risk to the Department is significant.
Medium	<p><u>Monitoring and Mitigation Required</u></p> <p>IMPACT:</p> <ul style="list-style-type: none"> • Weaknesses exist that could impact the entity’s financial records, the entity’s reputation, the entity’s goals or objectives or the efficiency and effectiveness of the entity’s operations. • Risk to the Department is moderate.
Low	<p><u>Improvement Required</u></p> <p>IMPACT:</p> <ul style="list-style-type: none"> • Opportunities are identified that could enhance operations by improving efficiency, effectiveness or control. • Risk to the Department is low.

* It should be noted that, in applying the above criteria to a recommendation, Internal Audit Branch takes into consideration the nature, scope, and significance of the audit finding(s), the impact of the recommendation on the organization, and the auditors’ professional judgment.

APPENDIX C – APPROACH AND METHODOLOGY

The approach and methodology used for the audit were consistent with the Internal Audit standards as outlined by the Institute of Internal Auditors and were aligned with the Treasury Board (TB) *Policy on Internal Audit* and related guidelines and procedures.

The planning and on-site examination phases of the audit were carried out between February and June, 2012. The planning phase consisted of a review and analysis of relevant documents, interviews with key personnel involved and the development of a preliminary risk assessment. The examination phase consisted of a detailed review and validation of those areas which were identified as having potentially higher risk during the planning phase of the audit. The on-site detailed examination was undertaken at the British Columbia Regional Office in Vancouver from April 23rd to 27th, 2012, and included interviews with senior management and staff, a walkthrough of legal files and an examination of relevant documentation.

Interviews were conducted with the following individuals from the Litigation section - Director, Business and Regulatory Law - Litigation; Deputy Regional Director and Senior Counsel; Senior Counsel and Team Lead; Manager, Office and Legal Support; iCase Coordinator; two Paralegals; three Counsel; and, two Legal Assistants. Interviews were conducted with the following individuals from the Advisory Services section - Director, Business and Regulatory Law - Advisory; Deputy Regional Director Advisory Fisheries and Senior Counsel; Senior Counsel; two Counsel; two Paralegals; two Legal Assistants. Individuals in the paralegal, counsel and legal assistant positions were randomly selected. The following individuals were interviewed from Regional Corporate Services - Associate Regional Director General; Regional Director, Corporate Services; Director, Human Resources; Counsel, Legal Risk Management and Policy; Manager, Information Management; and, three staff members from the Financial Division staff who were interviewed together. Interviews in the Financial Division included an acting Manager, Financial Management, Contracts & Material Management; a Cost Recovery Specialist and Financial Management; and, a Financial Review & Monitoring Officer.

In addition, relevant processes and documentation were examined and testing was conducted against the audit criteria. Documentation and a judgmental sample of files were from the 2010-2011 and 2011-2012 fiscal years. Based on an analysis of the information and evidence collected, the audit team formulated audit findings, which were validated through discussions with the auditee.

Upon completion of the Examination phase, audit findings were presented to Regional management for validation.