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Report of the
**Auditor General
of Canada**
to the House of Commons

FALL

Chapter 4
Managing Conflict of Interest



Office of the Auditor General of Canada

The Fall 2010 Report of the Auditor General of Canada comprises Matters of Special Importance, Main Points—Chapters 1 to 9, Appendices, and nine chapters. The main table of contents for the Report is found at the end of this publication.

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Chapter

4

Managing Conflict of Interest

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Managing Conflict of Interest

Main Points

What we examined

In the federal government, “conflict of interest” refers to a conflict arising between the public service duties of public servants and their private interests. Outside parties—consultants or contractors—may also have conflicts of interest in carrying out work for the federal government. At the time of our audit, the Values and Ethics Code for the Public Service, published in June 2003, was the government’s main policy for conflict of interest as it applies to public servants.

We looked at what the Treasury Board of Canada Secretariat and five selected departments have done to ensure that public servants can recognize a conflict of interest, however it arises, and know how to deal with it. We had found cases of conflict of interest in previous audits in three of the departments: Agriculture and Agri-Food Canada, Natural Resources Canada, and Public Works and Government Services Canada. We included those departments as well as Canadian Heritage and Human Resources and Skills Development Canada in this audit.

Audit work for this chapter was substantially completed on 31 May 2010.

Why it’s important

Conflict of interest is a government-wide issue that can extend across the public service to any department or agency. The public’s trust in government institutions is fundamental to the work of Canada’s public service. Whether apparent, potential, or real, conflicts of interest bring into question the integrity and fairness of decisions made by public servants. If not properly addressed, conflicts of interest can increase the level of distrust and cynicism toward government and, over time, impact the legitimacy and effectiveness of government actions.

What we found

- The Treasury Board of Canada Secretariat plays an important role, but is not providing sustained support to departments. Two areas that have suffered are policy guidance and training with content from the policy centre. This training supports departments and agencies in meeting common needs for training related to conflict of interest. The requirement to put in place new policies was also not met. As the responsible central agency, the Secretariat’s role is

crucial in fostering a shared understanding of the rules that govern conflict of interest throughout the public service.

- The five departments we examined have put in place mechanisms and assistance to address conflict of interest and, overall, have met their obligations under the Values and Ethics Code. Departments have set up organizational units to deal with values and ethics, designated senior officials to help public servants resolve issues related to the application of the code, and provided guidance and training on conflict of interest. For example, departments use their intranet sites to inform public servants about conflict of interest and provide contact information for staff who can answer questions.
- The departments have put in place processes to analyze conflict of interest declarations and identify and assess potential issues, but they need to follow up on required action and make sure that declarations are dealt with in a timely manner. Where it was clear that there was no conflict of interest, files were processed quickly, but our file review found that in 11 cases out of 25, processing took more than 120 days. Without adequate and timely follow-up, management cannot be assured that measures have been taken to mitigate or eliminate conflicts of interest.
- The three departments where previous audits found cases of conflict of interest have taken steps to address the risks identified. However, at the time of our audit, none of the departments had reviewed all areas of its organization to identify risks of conflict of interest. When departments know where conflict of interest is likely to occur, they can help staff guard against this risk, for example, through training to help public servants understand the situations they could face and the best way to address them.

The Treasury Board of Canada Secretariat and the departments have responded. The Secretariat and the departments agree with our recommendations. Their detailed responses follow each recommendation throughout the report.

Introduction

4.1 In the federal government, the term “conflict of interest” refers to a conflict that arises between the work-related duties and private interests of public servants. The Values and Ethics Code for the Public Service requires any such conflict to be resolved in the public interest. This includes “perceived” or “apparent” conflicts of interest, where it could appear that public servants’ private interests could improperly influence the way they perform their duties—whether or not this is the case. Outside parties—consultants or contractors—may also have conflicts of interest in carrying out work for the federal government.

4.2 The public’s trust in government institutions is key to the work of the Public Service of Canada. Conflicts of interest can call into question the integrity and fairness of decisions that public servants make. While it may not be possible to avoid all situations of conflict of interest, these situations must be disclosed and addressed. If they are not properly managed, conflicts of interest can increase the level of distrust and cynicism toward government. Over time, government actions can come to be seen as less legitimate and less effective in such a climate.

Values and Ethics Code for the Public Service

4.3 In 1999, in response to a report issued by the Task Force on Public Service Values and Ethics (the “Tait Report”), the Treasury Board of Canada Secretariat created the Office of Public Service Values and Ethics. The role of this Office was to give departments guidance on ethics programs.

4.4 In June 2003, the government published the Values and Ethics Code for the Public Service. This code, which was in effect during the period covered by our audit, is the government’s main policy for conflict of interest as it applies to public servants. The code establishes an important role for the Secretariat as the policy centre for government, including supporting departments and agencies in putting in place measures to avoid, identify, and manage conflict of interest. The code states that “Avoiding and preventing situations that could give rise to a conflict of interest, or the appearance of a conflict of interest, is one of the primary means by which a public servant maintains public confidence in the impartiality and objectivity of the Public Service.” The code stresses that conflict of interest does not relate only to financial transactions and economic benefits. According to the code, public servants and deputy heads have specific responsibilities (Exhibit 4.1).

4.5 The code makes it clear that individual public servants, as a condition of employment, are responsible for examining their actions and reporting to their superiors any conflict of interest, whether it is apparent, real, or potential. This reporting is done through the “confidential report” or self-declaration. A public servant who does not comply with the code “is subject to appropriate disciplinary action, up to and including termination of employment.” The code does not name specific penalties for different types of offences; but, given that termination is a possible consequence, public servants need to be able to identify when they may have a conflict of interest and know what steps to take to resolve the situation.

Exhibit 4.1 Responsibilities of public servants and deputy heads

According to the Values and Ethics Code for the Public Service, public servants must

- complete a “confidential report,” or self-declaration report, within 60 days of their first appointment or any subsequent appointment, regarding all outside activities or assets that might give rise to a conflict of interest with respect to their official duties; and
- review their obligations under this code every time a major change occurs in their personal affairs or official duties and file a confidential report if a real, apparent, or potential conflict of interest exists.

Public servants should not

- have private interests, other than those permitted pursuant to these measures, that would be affected by government actions in which they participate;
- solicit or accept transfers of economic benefit;
- step out of their official roles to assist private entities or persons in their dealings with the government where this would result in preferential treatment to the entities or persons;
- knowingly take advantage of, or benefit from, information that is obtained in the course of their official duties and that is not generally available to the public; or
- directly or indirectly use, or allow the use of, government property of any kind, including property leased to the government, for anything other than officially approved activities.

Deputy heads (or their delegates) must

- ensure that letters of offer for new public servants refer to the code;
 - ensure that public servants receive a copy of the code on any subsequent appointment and are reminded of the code’s requirements once a year;
 - encourage and maintain an ongoing dialogue on public service values and ethics within their organizations, in a manner that is relevant to the specific issues and challenges encountered by their organizations;
 - ensure that mechanisms and assistance are in place to help public servants raise, discuss, and resolve issues of concern related to this code. This includes designating a senior official to assist public servants to resolve issues arising from the application of the code; and
 - determine the appropriate method for a public servant to comply with the code in order to avoid conflicts of interest.
-

Source: Information adapted from the government’s Values and Ethics Code for the Public Service.

4.6 The *Public Servants Disclosure Protection Act*, which took effect in 2007, includes in its definition of “wrongdoing” a serious breach of a code of conduct. It is possible that a significant conflict of interest would constitute such a breach and therefore be considered wrongdoing under the Act. The Act is intended to provide a secure and confidential process for such disclosure.

Conflict of interest programs in other jurisdictions

4.7 Other jurisdictions have different types of conflict of interest regimes in place. We conducted research on the systems for dealing with conflict of interest in two Canadian provinces, in other countries, and in the private sector. In our research, we found various approaches to managing conflict of interest. Some organizations require employees to make declarations regularly, even when there is no conflict to declare; others have set up governance and structures from the centre. Some jurisdictions and private sector companies have developed metrics to measure how effective their efforts are in managing conflicts of interest.

Findings in previous audits

4.8 Three recent audits have highlighted issues related to conflict of interest. Our May 2009 audit of Natural Resources Canada (NRCan) examined a conflict of interest relating to contribution agreements (conditional payments made to a private sector organization to deliver programs). A consultant involved in administering the program worked for the organization that received funding under the same program. Our December 2008 audit on contracting for professional services at Public Works and Government Services Canada (PWGSC) found cases of conflict of interest in the hiring of contractors. Contractors working at PWGSC helped develop the search criteria for contracts that were later awarded to them.

4.9 Our May 2007 audit of Agriculture and Agri-Food Canada (AAFC) discovered conflicts of interest where public servants who processed applications for farm income stabilization payments were helping producers complete those applications for a fee. In each of these audits, the departments had not taken steps to address these conflicts of interest until we brought them to the departments’ attention.

4.10 The House of Commons Standing Committee on Public Accounts considered each of these audit chapters, which led to a report of the Committee to the House. All three departments said that changes had been or would be made to respond to the Office of the Auditor General’s recommendations on managing conflict of interest.

Focus of the audit

4.11 The objective of this audit was to find out whether the Treasury Board of Canada Secretariat and five selected departments have provided the tools public servants need to meet the federal government's responsibilities for managing conflict of interest. We defined "tools" broadly as the authorities, methods, and processes—including guidance, training, and identification of areas of risk—that the Secretariat and departments offer to public servants. We also examined the level of knowledge that selected officials who are responsible for managing conflict of interest have about the subject. The audit covered three fiscal years: 2007–08, 2008–09, and 2009–10.

4.12 Audit work was carried out in the Secretariat and in three departments that we audited recently: AAFC, PWGSC, and NRCan. We added two other departments to our selection: Canadian Heritage, as an example of a small department focused on issuing grants and contributions, and Human Resources and Skills Development Canada, as an example of a department with a high dollar value of contracts and of grants and contributions.

4.13 More details about the audit objectives, scope, approach, and criteria are in **About the Audit** at the end of this chapter.

Observations and Recommendations

Role of the Treasury Board of Canada Secretariat

4.14 The Treasury Board has the authority to ensure coherent management in the government as a whole. In addition to the Values and Ethics Code for the Public Service, the main Treasury Board policy instruments for dealing with conflict of interest are the Contracting Policy and the Directive on Transfer Payments.

4.15 The Treasury Board Contracting Policy addresses conflict of interest in the administration of contracts for consulting and professional services, as follows:

A consultant or professional, by virtue of the kind of service provided, may be in a position to exercise a bias toward a third party that could put the latter in a favoured position for future business with the Crown. If the consultant, professional or principals have a financial interest in the business of this third party, the policy requires the possibility of a conflict of interest to be considered. To avoid a conflict of interest, the policy calls for contracting authorities, before

signing a contract, to require the selected consultant or professional to sign a declaration, either as part of the contract or separately, stating that no pecuniary interest in the business of any third party exists that would affect objectivity in carrying out the contract.

There are also situations where, in meeting its obligations to a contracting authority, a contractor may be in a position of potential conflict with competing or opposing interests of the contractor's other clients, either during the period of or subsequent to this particular contract. Contractors are expected to inform the contracting authority of these potentially competing services and interests, and explain why the situation would not represent a conflict of interest. Where appropriate, . . . a contractor [is required] to sign a declaration [to that effect].

4.16 The Treasury Board Directive on Transfer Payments (including grants and contributions) addresses conflict of interest by stating that department managers who are responsible for preparing funding agreements must make sure that no current or former public servant or public office holder shall benefit, unless providing or receiving such benefits complies with the legislation and codes that apply.

The Secretariat plays an important role

4.17 Under the Values and Ethics Code, the Treasury Board, through its Secretariat, is responsible for several ongoing activities that support departments and agencies as they implement the code (Exhibit 4.2).

Exhibit 4.2 Responsibilities of the Treasury Board of Canada Secretariat

According to the Values and Ethics Code for the Public Service, the Treasury Board of Canada, through its Secretariat, must

- ensure that information and educational materials related to the Code are widely available;
- maintain an advisory support service for deputy heads and for designated officials on how to interpret and promote the Code;
- use the Management Accountability Framework to monitor the implementation of the Code in departments and agencies;
- assist deputy heads and public servants in determining whether their assets, such as publicly traded securities, could lead to a conflict of interest in relation to their duties and obligations and, if necessary, set up a **blind trust** or divest the assets; and
- conduct a review of the Code five years after it comes into effect.

A blind trust—A trust in which the trustees have full discretion over the assets, and the trust beneficiaries have no knowledge of the holdings of the trust and no right to intervene in the handling of the trust.

Source: Information adapted from the government's Values and Ethics Code for the Public Service.

4.18 The Treasury Board of Canada Secretariat supports the President of the Treasury Board in promoting ethical practices in the public sector under the *Public Servants Disclosure Protection Act* (PSDPA). As the responsible central agency, the Secretariat's role is crucial in encouraging a shared understanding of the measures to avoid conflict of interest throughout the public service. We examined the Secretariat's role and responsibilities in relation to conflict of interest to find out how well the Secretariat was carrying out these responsibilities. We interviewed key Secretariat officials in the relevant policy areas and analyzed the information they provided.

4.19 The Office of Public Service Values and Ethics moved to the Public Service Human Resources Management Agency (later called the Canada Public Service Agency) in 2003, soon after the Values and Ethics Code was adopted. This Office developed basic guidance, including an interpretation guide for the Code and guidelines for setting up a blind trust.

4.20 The Office also gave departments and agencies other support tools. These tools included a website for values and ethics, material on "Frequently Asked Questions" and "Advice from the Experts," and a Guide to Action for senior officials designated under the Code. The Office offered outreach activities by convening values and ethics networks for department officials, including a network devoted to conflict of interest. The Office also launched training initiatives with the Canada School of Public Service.

4.21 The PSDPA requires the Treasury Board to establish a code of conduct for the public sector, which will apply to departments and agencies within the public service as well as to other public sector entities such as Crown corporations. This code is expected to replace the Values and Ethics Code for the Public Service. Departments and agencies will also be required to create their own codes of conduct, which are to align with the public sector code, by 31 March 2011. The Secretariat has told us that it intends to address conflict of interest in the new code; more detailed provisions will be contained in a new Treasury Board Policy on Conflict of Interest and Post-Employment for the core public administration.

The Secretariat is not providing sustained support to departments

4.22 At the time of our audit, the Secretariat had not finished developing the new code of conduct and the conflict of interest policy, both of which have been in development since the PSDPA came into force in 2007. The delays in issuing the new code and policy have added

to a sense of uncertainty in the audited departments. At the discretion of their deputy heads, some organizations have postponed developing their own codes of conduct until the public sector code is finalized, while others have proceeded to set up their own codes. For example, the Labour Program in Human Resources and Skills Development Canada took the initiative to release Guidelines of Professional Conduct in 2009.

4.23 In March 2009, the government consolidated the Canada Public Service Agency with sections of the Secretariat to form the Office of the Chief Human Resources Officer, returning the policy centre for values and ethics to the Secretariat. The government's objective for the consolidation was to simplify and streamline the roles of central human resource agencies and to enable deputy heads to take responsibility for human resource management in their own departments. As a result, staff resources for the policy centre were reduced, from 23 full-time equivalents (FTEs) in 2008 to 11 FTEs in early 2010.

4.24 Secretariat officials told us that as a result of resources being reduced and the mandate being changed from that of the former Office of Public Service Values and Ethics, they must now focus on key priorities, such as implementing the PSDPA and developing the new code of conduct and conflict of interest policy. Other activities that the 2003 code required have been limited.

4.25 For example, the code requires the Treasury Board to ensure, through its Secretariat, that information and educational material are made widely available. When consulted by the Secretariat, several departments identified the need for more detailed, up-to-date guides and tools to address their concerns with the interpretation of the code. Some of the audited departments have expressed the same concerns. In our view, the required materials are not sufficiently widely available.

4.26 The need for policy guidance was also raised by Natural Resources Canada (NRCan). Although it has not formally addressed this issue to the Secretariat, NRCan told us that it needs additional guidance from the Secretariat on conflict of interest situations that could arise from its extensive external collaborations with universities and the private sector.

4.27 Although the Secretariat had developed draft guidance for departments and agencies on how to identify and manage their conflict of interest risks, the audited departments told us that they were not aware of this guidance. This guidance was to be released in the 2008–09 fiscal year. At the time of our audit, the guidance had not been finalized

or formally issued. Other tools remain out of date, including the confidential report form to declare conflicts of interest. Although this form is not mandatory, and departments can adapt it to suit their needs, the Secretariat has not revised it or its related instructions since 2003.

4.28 Recommendation. The Treasury Board of Canada Secretariat should work with deputy heads to identify the common needs of their departments and agencies in the areas of policy advice and guidance for conflict of interest, and should support deputy heads in meeting those needs.

The Secretariat's response. Agreed. While recognizing that deputy heads have primary responsibility for managing conflict of interest within their organizations, the Secretariat will work with deputy heads of departments and agencies subject to the new Policy on Conflict of Interest and Post-employment to identify common needs for guidance on the management of conflict of interest and methods for meeting those needs.

Common needs for training with content from the policy centre are not being met

4.29 The identification of common learning needs and central delivery of training programs can help ensure that departments and agencies have a common understanding of the rules that govern conflict of interest.

4.30 The Secretariat has recognized that departments and agencies need common training material, especially in relation to the development of their organizational codes of conduct and in applying the new Public Sector Code and Conflict of Interest Policy. The Secretariat can play a supporting role in encouraging organizations to identify common learning needs. We examined the Secretariat's activities in this area.

4.31 The Secretariat has told us that it does not have the mandate to provide conflict of interest training itself, and that deputy heads are solely responsible for identifying training needs for their employees and ensuring these needs are met. Deputy heads are assisted by the Canada School of Public Service in meeting the learning needs of their organizations, including training and development programs delivered by the School. No one body is responsible for developing common training for conflict of interest across the public service. In our view, the lack of sufficient training with content from the policy centre creates a risk that public servants across government will not have a common understanding of conflict of interest.

4.32 As in other areas, we found that work had been started by the Secretariat but had not been completed or fully implemented. A draft plan for ethics training was developed in 2005, but was not fully implemented. A course entitled “Conflict of Interest Practitioners’ Training” was offered to values and ethics officers in departments in 2006, but only two pilot courses were given that year. Training for senior management includes a small component on conflict of interest, as part of the section on values and ethics.

4.33 An online values and ethics course for public servants, delivered by the Canada School, entitled “Paving the Way,” which has a section on conflict of interest, has been available since 2008. Plans were under way to offer online training geared to managers as well. However, at the time of our audit, the development of the courses targeted to middle managers and senior managers had not been completed as planned.

4.34 Recommendation. The Treasury Board of Canada Secretariat should work with deputy heads to identify the common needs of departments and agencies for training that is related to conflict of interest, and should support deputy heads in meeting those needs.

The Secretariat’s response. Agreed. While recognizing that deputy heads have primary responsibility for managing conflict of interest within their organizations, in partnership with the Canada School of Public Service, the Secretariat will work with deputy heads to identify the course material that should be modified or developed to respond to the coming into effect of the new Policy on Conflict of Interest and Post-Employment.

The Secretariat has reviewed the effectiveness of the Values and Ethics Code

4.35 The Values and Ethics Code states that the Secretariat must monitor how departments implement the code by using the Management Accountability Framework (MAF) and conducting a five-year review of the code itself. The Secretariat has said that one of its goals in revising policy instruments is to ensure that they respond adequately to key risks in a cost-effective way. These instruments include the guidance and other tools that the Secretariat creates to help departments implement policy. We examined the efforts the Secretariat has made to monitor and assess the effectiveness of these tools.

4.36 The Secretariat monitors the implementation of the Values and Ethics Code in departments and agencies through its annual MAF exercise, which began in 2003. One of the “areas of management” in the MAF focuses on values and ethics; however, we found that the

assessments do not specifically examine conflict of interest. In our view, referring to conflict of interest would ensure that this area is assessed more completely. We noted that the issues raised in the MAF vary from year to year, which gives the Secretariat an opportunity to improve the assessments by including conflict of interest in future MAF rounds.

4.37 The Values and Ethics Code calls for a five-year review, which came due in 2008. Secretariat officials told us that the review began with research and consultations with the community of interested officials in departments and agencies. The review was later merged with the policy work to develop the Code of Conduct that was required under the *Public Servants Disclosure Protection Act*. We noted that the consultations identified departments' concerns, comments, and suggestions on conflict of interest; this input enabled the Secretariat to learn what changes were needed and to assess policy effectiveness. Although its review did not include its current guidance tools and support activities, we noted that the Secretariat plans to issue revised guidance when the new policy is developed.

Implementation of conflict of interest measures in selected departments

4.38 We examined the conflict of interest frameworks that are in place at Agriculture and Agri-Food Canada (AAFC), Canadian Heritage, Human Resources and Skills Development Canada (HRSDC), Natural Resources Canada (NRCan), and Public Works and Government Services Canada (PWGSC). Exhibit 4.3 provides information on the mandates, spending levels, and number of employees in each department.

The departments have the required mechanisms in place to address conflict of interest

4.39 Deputy heads have major responsibilities under the Values and Ethics Code. They are responsible for ensuring that public servants comply with the code and must set rules governing conflict of interest in their organizations. We examined whether departments had adequate mechanisms to address conflict of interest—including methods for public servants to comply with the code, organizational arrangements, and guidance.

4.40 We found that the selected departments have met the Values and Ethics Code's requirements to have mechanisms in place to address conflict of interest and have determined what, in their view, are appropriate methods for public servants to comply with the code to avoid conflicts of interest. All five departments give a copy of the code

to public servants with the letter of offer, on appointment, as required in the code. Four of the departments remind staff once a year that they must submit confidential reports on conflict of interest if they find themselves in such a situation. At the time of our audit, NRCan did not have this measure in place.

4.41 PWGSC made it mandatory for public servants who are engaged in or who are considering any outside employment, including ownership of a business, to disclose this information in a confidential report, whether or not the public servant thinks that the situation may be a conflict of interest.

4.42 HRSDC told us that all public servants must now submit declarations within 60 days of their appointment, transfer, or deployment, or indicate they have nothing to disclose. HRSDC tracks public servants and checks whether they have submitted these

Exhibit 4.3 The audited departments have different mandates and risks

Departments	Mandate	Actual spending 2008–09 (\$ million)	Number of full-time equivalents (employees)
Agriculture and Agri-Food Canada	Provide information, research and technology, and policies and programs to achieve security of the food system, health of the environment, and innovation for growth. This includes supporting agricultural productivity and trade, delivering farm income stabilization programming, and conducting research.	2,586	6,385
Canadian Heritage	Fund programs and provide grants and contributions to Canadians to promote culture; the arts; heritage; official languages; citizenship and participation; and Aboriginal, youth, and sport initiatives.	1,394	2,384
Human Resources and Skills Development Canada	Develop and manage programs and services to provide income support to Canadians through Old Age Security, the Canada Pension Plan, and Employment Insurance. Provide access to employment programs and services to unemployed Canadians to help them prepare for, find, and retain employment. Ensure safe, fair, and productive workplaces and effective international labour standards.	88,264	23,778
Natural Resources Canada	Conduct research and provide grants and contributions to Canadians for research and development to improve economic competitiveness, environmentally responsible use, and strengthened stewardship of Canada's natural resources.	4,678	4,372
Public Works and Government Services Canada	Provide procurement services for other government departments; make payments for, and accept payments to, the Government of Canada; manage a large and diverse portfolio of real estate; and provide information management/information technology (IM/IT) infrastructure for federal government operations.	2,459	14,379*

*Number of employees (not full-time equivalents)

Sources: Departmental performance reports 2008–09 and departmental websites

declarations, and it is developing an automated process to facilitate this practice. The new requirement is posted on the HRSDC intranet; however, at the time of our audit, there had not been a department-wide announcement about the requirement. The practice of requesting all public servants to submit a declaration, although not required by the Values and Ethics Code, is useful for providing assurance to department management that all staff have considered and addressed the issue.

4.43 The five departments have put in place organizational units to deal with values and ethics. All have designated a senior official “to assist public servants to resolve issues arising from the application of the code.” The departments have also designated a senior officer for disclosure, as required by the *Public Servants Disclosure Protection Act*. All of the selected departments have senior-level “champions” for values and ethics apart from the senior official with direct responsibility for values and ethics, although they are not required to. We interviewed the officials in all three of these positions in the five departments and found that they were knowledgeable about their role.

4.44 The five departments also have mechanisms and assistance for public servants to discuss issues related to the code. These practices include listing information on their intranets about conflict of interest and about how to declare a conflict of interest. The departments have listed contact names, phone numbers, and email accounts so public servants can reach staff who can answer their questions. AAFC gives all managers a copy of its Conflict of Interest Reference Guide, which contains detailed guidance on conflict of interest procedures, roles, and responsibilities. The guide offers managers the background they need to deal with conflict of interest situations and questions that could arise. Canadian Heritage gives public servants a guide to help them avoid conflict of interest in two areas: taking part in outside activities or employment, and accepting complimentary tickets to cultural or sporting events.

4.45 Departments must also discuss values and ethics in their external audit advisory committees. The Treasury Board Directive on Departmental Audit Committees, which took effect in 2006, requires that these committees periodically review compliance with ethical standards, including conflict of interest. We examined the proceedings of these audit committees and found that all had addressed values and ethics in at least one of their meetings over the past three years.

4.46 Overall, the audited departments have developed mechanisms to meet the requirements of the Values and Ethics Code and, in some

cases, have developed additional mechanisms. However, there are a number of areas that require further attention.

Processing of conflict of interest declarations is inconsistent and often not timely

4.47 Once departments receive conflict of interest declarations, they must analyze them to identify issues, judge how serious the issues are, take action in a timely manner, and verify that the conflict has been resolved. If it is not resolved, the department is responsible for imposing sanctions. We examined the processes departments use to deal with confidential reports to make sure that the conflict was mitigated or resolved in each case. We also carried out a file review relating to conflict of interest declarations by individuals at NRCan, Canadian Heritage, and PWGSC to determine if key steps were followed, appropriate parties were involved, and the process was timely.

4.48 In our file review, we found that the departments we examined followed a process that included consultation with the individual involved and often with the individual's manager and with legal services. The departments analyzed the situation and decided on action to be taken by the public servant, if warranted. In most cases, the individual was sent a written response within three months that outlined the action required to resolve the conflict of interest (for example, divesting himself or herself of certain assets).

4.49 However, we found inconsistencies in how departments follow up with public servants. With the exception of Canadian Heritage, the departments require public servants to provide proof that they have taken action to correct the situation. Once the letter outlining the recommended action has been received, Canadian Heritage relies on the individual (and, when required, on managers) to take action. Canadian Heritage has confirmed that it does not conduct further follow-up. Follow-up is needed to assure management that the public servant has taken action to reduce or eliminate the conflict of interest.

4.50 Timeliness was also an issue. Our file review found that in 11 cases out of 25, the process took more than 120 days. In our view, this is a long period of time for a department to operate with this type of uncertainty. Where it was clear that there was no conflict of interest, the files were processed quickly. Where the issue was more complex, it often took longer. In three of those cases, the individual left a department before the issue was resolved. This means that, in the interim, a serious conflict of interest could have been left unaddressed, creating a risk for the department. In October 2009, PWGSC officials

put in place a standard intended to process all files within 90 days to avoid this type of risk.

4.51 Recommendation. Agriculture and Agri-Food Canada, Canadian Heritage, Human Resources and Skills Development Canada, and Natural Resources Canada should put in place standards to ensure that conflict of interest declarations are addressed in a timely fashion, and that public servants take the required action to eliminate or reduce the conflict of interest.

Agriculture and Agri-Food Canada's response. Agreed. A review of the Values and Ethics Policy Centre activities has been completed. Service standards are being developed. In October 2010, the service standards will be communicated to employees, and performance against the standards will be tracked from that date.

Canadian Heritage's response. Agreed. The Department plans to determine and communicate a service standard to respond to conflict of interest enquiries by including the standard in the Human Resources Workplace Management Branch service standard document on the intranet site. It also plans to establish a follow-up system, with deadlines, if, in response to a potential conflict of interest, recommended actions must be taken by either the employee or management. The target date for these activities is October 2010.

Human Resources and Skills Development Canada's response. Agreed. The Department is taking corrective measures to address this observation. The Department is currently developing a standardized process, including service standards, which will ensure conflict of interest declarations are addressed in a timelier manner in the future. In addition, a "bring forward" administrative system will be implemented to ensure required action is taken by public servants to appropriately mitigate any areas of identified conflict of interest. A phased approach will be used to implement these standards by the target date of 31 December 2010.

Natural Resources Canada's response. Agreed. The Department has recently launched a Values and Ethics Program Framework built around five pillars: leadership, outreach, policies and procedures, guidance and advice, and oversight. This framework, along with the Department's Corporate Risk Framework, is providing policy guidance, context, and coordination for departmental priorities and action related to conflicts of interest, including the management response to this audit.

Consistent with the five pillars, the Department regularly advises on declaration obligations, most recently on 29 June 2010, and will

continue to do so on an annual basis. The Department will also be establishing service standards to ensure that such declarations are addressed on a timely basis, with a target date of 31 December 2010 for establishing these service standards.

Mechanisms address situations of conflict of interest that we identified in previous audits

4.52 Our previous audits that identified cases of conflict of interest focused on two areas: grants and contributions, and procurement. We examined the actions that AAFC, NRCan, and PWGSC had taken to prevent these types of situations from happening again. We looked at whether measures are in place and whether they are designed to address the issues identified; however, we did not audit how well the measures are working. We found that mechanisms had been put in place that are intended to address these areas.

4.53 Grants and contributions. Our 2007 audit of AAFC recommended that the Department strengthen measures to reduce the risks of conflict of interest where public servants who process farm income support applications also help to prepare applications for themselves and others. We found that AAFC has taken action in response to our chapter and to recommendations from the Public Accounts Committee to avoid conflict of interest issues in its farm income support program.

4.54 AAFC now includes clauses in application materials that require public servants who process farm income support applications to declare that they have no conflict of interest. Public servants are told not to help applicants fill out application forms for a fee; public servants and former public servants must identify themselves when filling out applications to receive income support for themselves or others; and a special team has been created to process applications from present or former public servants at AAFC to ensure impartiality. Conflict of interest training is now mandatory for staff working in all grant and contribution programs.

4.55 In Chapter 6 of our 2009 Spring Report, we recommended that NRCan create policies and guidance to identify and address conflicts of interest for contribution agreements. We found that NRCan has put in place a new transfer payment policy, which includes a 20-point checklist for contribution agreements. Staff must sign the policy to say they understand what to do to avoid and disclose conflicts of interest for each agreement. We noted that three conflict of interest clauses are now in all contribution agreements. These clauses require those who

administer the agreement to identify, prevent, and resolve conflicts of interest. In an April 2010 report, the Public Accounts Committee recommended that NRCan take further measures to ensure it has the right mix of policies, procedures, and practices to manage grant and contribution programs appropriately and to make sure that problems involving contribution agreements do not happen again.

4.56 Procurement. PWGSC is the federal government's main department for procurement. Our 2008 audit recommended that PWGSC take steps to avoid situations of conflict of interest, such as awarding a contract to an individual or firm that helped to develop the search criteria. The Public Accounts Committee recommended that PWGSC review its contracting policy for long-term information technology projects, including issues that could lead to employee–employer relationships being created. PWGSC submitted, to the Public Accounts Committee, an action plan that included developing an overall Contract Management Framework. A key part of the framework is a form that requires members of bid evaluation teams to certify that being on the team is not a conflict of interest for them. However, we did not audit the implementation of this measure.

The departments do not adequately identify potential risks for conflict of interest

4.57 The Values and Ethics Code requires deputy heads to discuss values and ethics “in a manner that is relevant to the specific issues and challenges encountered by their organizations.” To achieve this goal, departments must examine their activities, programs, and functions to identify areas where the possibility of conflict of interest is greater, and devise strategies to address these situations. We examined related documentation in each department and spoke to department officials about whether these actions were carried out.

4.58 In departments where we had found instances of conflict of interest before, we noted that strategies had been developed to assess specific areas; however, at the time of our audit, none of the selected departments had examined all areas of their organization to identify risks of conflict of interest. As noted previously, the Secretariat has developed draft guidance on identifying and managing conflict of interest risks, but has not yet finalized or formally released this guidance.

4.59 PWGSC's guidance on conflict of interest focuses on outside employment and post-employment, as well as relationships with consultants and suppliers, but not on other areas. To address this, PWGSC officials informed us that they are developing a department-wide operational risk profile that identifies other types of conflict of

interest that could arise. However, at the time of our audit, this was not yet finalized.

4.60 Canadian Heritage conducted a formal risk assessment in the 2008–09 fiscal year that rated conflict of interest as a low risk. This finding was based on the fact that it had guidance in place on accepting gifts and taking part in outside activities or employment, and had strong ratings for values and ethics in the Secretariat’s Management Accountability Framework. This assessment, however, did not consider the risk of conflict of interest in all Canadian Heritage programs and functions, notably grants and contributions—one of its key activities.

4.61 Both NRCan and AAFC have taken steps to assess risks for conflict of interest in some of their activities. However, the departments have not systematically assessed other areas that may have posed risks. At the time of our audit, both of these departments were working to identify areas of risk for conflict of interest in all their programs, but this work is not yet complete. NRCan has noted that because of its science mandate, collaboration both within and outside government is needed. Identifying risks of conflict of interest in collaborative arrangements is important for this department, leading it to seek guidance from the Secretariat.

4.62 HRSDC’s corporate risk profile does not yet address conflict of interest; however, we noted that it was working on a Values and Ethics Risk Assessment. This document is intended to address risks for conflict of interest in areas including grants and contributions and contracting.

4.63 Without an understanding of where risk lies, federal departments cannot help public servants guard against it. While the audited departments have made efforts to assess risks of conflict of interest in specific areas, each organization needs a comprehensive and consistent approach. Part of this approach involves requiring public servants in high-risk areas to submit a declaration regularly, even if they have no conflict of interest to declare. This type of positive declaration can provide assurance to departments that public servants in high-risk areas have thought about conflict of interest and have addressed it.

4.64 Recommendation. Agriculture and Agri-Food Canada, Canadian Heritage, Human Resources and Skills Development Canada, Natural Resources Canada, and Public Works and Government Services Canada should develop an approach to risk assessment that includes identification and prioritization of risks, assessment and mitigation strategies, and residual risk assessment, in the key areas where major conflicts of interest could arise.

Agriculture and Agri-Food Canada's response. Agreed.

The Department has completed a risk assessment for conflict of interest for 2010. It will use lessons learned from this process, along with any direction and guidance from the Treasury Board of Canada Secretariat on assessing conflict of interest risk, in future assessments.

Canadian Heritage's response. Agreed. By March 2011, the Department will develop an approach to perform a risk assessment that will identify key areas where major conflicts of interest could arise. The Department will also ensure that the risk assessment results are confirmed on a regular basis, as required.

Human Resources and Skills Development Canada's response.

Agreed. The Department has conducted a preliminary department-wide risk assessment of values and ethics to validate key areas where major conflicts of interests could arise. Building on the results of the preliminary assessment, the Department will conduct further analysis to identify areas of high risk. Risks identified will be prioritized, and appropriate risk mitigation strategies will be developed to address each risk. Key deliverables and timelines for completion of those deliverables will be identified, and indicators to measure success of each risk mitigation strategy will be established. Finally, implementation of these strategies will be monitored and modified when necessary, with planned progress reporting on a bi-annual basis to senior management through corporate committees. A target date of March 2012 has been set for implementing this enhanced risk assessment and related strategies.

Natural Resources Canada's response. Agreed. As noted in this report, the Department has taken steps to assess risks for conflict of interest. It has launched a corporate risk profile, which is a departmental risk assessment process, to identify, assess, and prioritize corporate-level risks and mitigation strategies. This will include but is not limited to conflict of interest. The corporate risk profile clarifies governance and accountabilities, and fosters employee engagement, training, and risk awareness. The Department will build on this work to more fully and systematically assess potential risk areas.

Specifically, through the Values and Ethics Program Framework and its corporate risk profile, the Department has identified its transfer payment (grant and contribution) programs as the highest conflict of interest risk area. The Department has established a Centre of Expertise in the Human Resources Branch for Values and Ethics and identified a Values and Ethics Champion at the assistant deputy minister level. The Department's Values and Ethics Champion,

managers, and the Centre of Expertise provide advice and guidance to eliminate or reduce conflict of interest. Additionally, the Department added three conflict of interest clauses to its contribution agreements to avoid conflict of interest situations involving employees and recipients.

The second conflict of interest priority risk area for the Department is Science and Technology (S&T). An S&T Conflict of Interest Working Group was created and mandated through established terms of reference to focus its efforts in assessing the Department's needs, elaborate relevant working tools, and provide direction on S&T collaboration. Working Group recommendations will be fully implemented by the end of the 2010–11 fiscal year.

The third conflict of interest priority area for the Department is contracting and human resources services. By 31 March 2011, the Department will establish guidelines regarding the hiring of former public servants.

Public Works and Government Services Canada's response.

Agreed. The Department has developed a robust approach to risk assessment that includes identification and prioritization of risks; assessments and mitigation strategies; and residual risk assessment. The Department's draft operational risk profile will be finalized by the end of December 2010 and will pay special attention to risks relating to conflict of interest. The Department will use the operational risk profile to refresh its corporate, branch, and regional risk profiles. In addition, the Department will revise the risk categories annex of its Policy on Integrated Risk Management to include conflict of interest risks. It will include these risks in the Department's Risk Management Guide, as well as the training courses for its executives (half-day training session) and for managers and supervisors (one-day session).

4.65 Recommendation. Once they have identified high-risk areas through an appropriate risk assessment process, Agriculture and Agri-Food Canada, Canadian Heritage, Human Resources and Skills Development Canada, Natural Resources Canada, and Public Works and Government Services Canada should require public servants in identified high-risk areas to report regularly, whether or not they have a conflict of interest.

Agriculture and Agri-Food Canada's response. Agreed. Once the Department has identified its areas at high risk for conflict of interest, it will implement a process where public servants occupying high risk

positions in those areas attest regularly that they understand their obligations under the Values and Ethics Code for the Public Service and indicate whether or not they need to submit or update their Confidential Report. Phased implementation will begin in April 2011 in conjunction with the implementation of the new Values and Ethics Code for the Public Service.

Canadian Heritage's response. Agreed. Once the Department has identified its areas at high risk for conflict of interest, it will implement a new reporting process. Public servants occupying high risk positions will be required to attest regularly that they understand their obligations under the Values and Ethics Code for the Public Service. They will also be required to indicate whether or not they need to submit or update their confidential declaration. The target date for these activities is June 2011.

Human Resources and Skills Development Canada's response. Agreed. In addition to conducting a robust risk assessment exercise as outlined in the Department's response to the previous recommendation, the Department has initiated the development of an automated confidential report submission process for attestations by its employees. When fully implemented, this process will complement the enhanced risk-assessment exercise currently underway. The attestation will also include a declaration as to whether information submitted in previous confidential report submissions provided to the Department needs to be re-submitted or updated. The target date for launching the pilot phase of the automated confidential report submission system is September 2010. The target date to automate the attestation process for individuals working in identified high risk areas is April 2011.

Natural Resources Canada's response. Agreed. The Department's Values and Ethics Program Framework includes the implementation in 2010–11 of a process where public servants in high risk positions attest regularly as to whether they are in a situation that could present a conflict of interest. As per the Values and Ethics Code for the Public Service, employees faced with conflict of interest situations are required to submit a confidential report, which is then assessed by the Department's Values and Ethics Centre of Expertise. As appropriate, an action plan is developed and implemented to mitigate risks.

Public Works and Government Services Canada's response. Agreed. Once the Department has identified its areas at high risk for conflict of interest, it will implement a reporting process. Public servants occupying positions in those high risk areas will be required to attest, at an interval appropriate to the risk exposure, that they

understand their obligations under the Values and Ethics Code for the Public Service. They will also indicate whether or not they need to submit or update their confidential declaration.

The departments offer some training in conflict of interest

4.66 Training is critical to promote awareness of situations that could lead to conflict of interest. With proper training, public servants can detect, disclose, avoid, or resolve such situations before they become problems for the department. Guidance on the Values and Ethics Code states that departments have a responsibility to offer public servants awareness training, and educational activities and materials. The code also states that this training should be relevant to the specific issues and challenges of departments, as training that relates closely to the work of public servants is more likely to be effective. We examined whether departments offered training on conflict of interest, whether it was mandatory, whether it included discussion of scenarios specific to the department, and whether effectiveness was assessed. We looked at course information, course materials, and training statistics. We also met with the people who designed and delivered the training.

4.67 We found that AAFC has identified training needs and implemented a mandatory course that deals specifically with conflict of interest. The course includes a discussion of scenarios and case studies that reflect conflict of interest risks that are specific to AAFC activities, programs, functions, and levels of employees. AAFC also has a conflict of interest reference guide that enables managers to deliver additional training to employees. Orientation courses for new employees and managers include a conflict of interest component.

4.68 At Canadian Heritage, all new employees receive an orientation session that includes values and ethics. Managers also attend a mandatory two-day session that includes content on values and ethics. The 2009 Canadian Heritage grants and contributions training event featured a session on values and ethics, which included case studies.

4.69 PWGSC also provides mandatory training in ethics for all public servants. The one-day course includes several case studies that deal with conflict of interest issues. PWGSC provides ad hoc information sessions to public servants at the request of management after a particular incident or based on certain identified risks. HRSDC's orientation for new employees incorporates values and ethics components. Different branches and groups can request training in values and ethics when they need it.

4.70 NRCan does not have mandatory training, but has provided some sessions to groups of employees that include case studies based on the its activities. While all five departments used some end-of-session feedback to improve future training, none held a formal evaluation of how effective the training was.

4.71 Although the audited departments offer a wide range of training, with the exception of AAFC, this training is not based on efforts by the departments to identify areas where conflict of interest could arise. Creating an approach based on cases and scenarios that reflect the unique conflict of interest risks that different groups of staff face as they carry out their duties would help participants to understand better the conflict of interest situations they could face and to learn the best way to address them.

4.72 Recommendation. Canadian Heritage, Human Resources and Skills Development Canada, Natural Resources Canada, and Public Works and Government Services Canada should ensure that their training is based on the conflict of interest risks that staff in specific areas face as they carry out their duties; the training should include case studies and scenarios in these areas.

Canadian Heritage's response. Agreed. From April 2011, the Department will ensure that conflict of interest training and/or awareness sessions that it provides are based on risk areas identified within the risk assessment and include cases and scenarios related to these areas.

Human Resources and Skills Development Canada's response. Agreed. The Department recognizes the benefit of developing training that takes into consideration conflict of interest risks that staff in specific areas face as they carry out their duties. The Department further recognizes that improvements can be made to the values and ethics training program it currently has in place, and it will take steps to do so. More specifically, the Department's Office of Values and Ethics, in partnership with Human Resources Services Branch and the Service Canada College, is currently developing training material on conflict of interest to inform employees on avoidance, prevention, and resolution of conflict of interest situations.

Further, plans are being developed to ensure that orientation sessions for new employees include realistic case studies, scenarios that new employees would be expected to encounter day to day, and practical strategies for resolution. A draft tool entitled Practical Solutions for Public Servants, designed to assist public servants make ethical

decisions, assess post-employment situations, and determine situations that could give rise to conflict of interest, is also being tested. Testing is expected to continue until January 2011, when the Department will determine rollout and implementation.

Finally, the Department will continue to use the intelligence gained from other activities (for example, Special Investigations Unit outcomes) to ensure its training continues to focus on risk areas specific to its mandate.

Natural Resources Canada's response. Agreed. The Department's Values and Ethics Program Framework includes conflict of interest employee training. The Department has achieved increasing levels of values and ethics awareness and understanding among managers and employees across the Department. For example, it holds employee engagement sessions, including case studies that address values and ethics as well as conflict of interest situations and appropriate responses. These case studies are and will continue to be updated to ensure they reflect realistic and specific situations related to risks that may be encountered.

The Department's key values and ethics activities planned for the 2010–11 fiscal year include the following:

- leadership and employee engagement;
- outreach and partnering with the Department's communities of practice and with social media technologies, developing a departmental code of conduct;
- policies, procedures, and processes to address the Department's needs (for example, establish service standards to address conflict of interest issues);
- guidance and advice to ensure awareness of and conformity to the values and ethics code (guidelines for gifts, hospitality, and other benefits); and
- oversight (monitoring and evaluation) of the values and ethics program's effectiveness and efficiency (for example, assessing the Department's ethical climate through an internal survey).

Public Works and Government Services Canada's response.

Agreed. The Department is offering training that includes cases and scenarios developed and geared directly toward certain risks identified within a particular area of the Department's operations. For example, the training provided to Parliamentary Precinct Branch employees in May and June 2009 included scenarios for discussion geared to the

types of contracting conducted within the branch. Similar training based on identified risks was also delivered within other areas of the Department in November 2009 and March 2010. Once the risks in key areas where major conflicts of interest could arise have been identified and prioritized, the Department will review its training program to ensure the program is based on the conflict of interest risks that staff in specific areas could face as they carry out their duties. The Department will also ensure that its updated training program includes relevant cases and scenarios, where appropriate.

The departments are taking some steps to assess the effectiveness of their conflict of interest measures

4.73 The Values and Ethics Code makes deputy heads accountable for ensuring that the Code is fully upheld and advanced in their organization. They are also responsible for monitoring and auditing to see whether public servants comply with the code. To meet these responsibilities, deputy heads must find out whether the measures that are in place are effective. We examined how the five audited departments assessed how effective their methods are for avoiding conflict of interest.

4.74 We found that the departments have collected and analyzed information on how adequate their conflict of interest measures are. In 2007, HRSDC did an audit of its ethics infrastructure that recommended that cases to identify trends and root causes of ethical transgressions be analyzed and that action be taken to prevent further occurrences. HRSDC has tried to centralize the tracking of confidential reports. It has not been able to provide complete data on confidential reports because some information has been kept at the regional level. Data on inquiries about values and ethics is tracked separately by a different branch and does not cover conflict of interest declarations.

4.75 A 2009 evaluation of values and ethics that PWGSC conducted found that despite signs that the program is working well, the evaluation was unable to assess the program's impact thoroughly due to the lack of effective, results-based measurement of performance. The evaluation recommended that a performance measurement strategy be developed to assess effectiveness and track performance. PWGSC is implementing a plan to address the evaluation's recommendations. It has also set a service standard of a maximum of 90 days to analyze a confidential report on a conflict of interest and respond to the public servant who submitted it. The Deputy Minister receives quarterly information on conflict of interest cases that have not been resolved within 90 days, as well as

information on ethical enquiries, which may include questions related to conflict of interest. However, this data does not include all data on conflict of interest, such as the total number of outstanding cases.

4.76 NRCan conducted an internal audit in 2009 that measured progress on values and ethics activities since 2005. The audit recommended that mechanisms be implemented to monitor and measure the results of the NRCan values and ethics program. NRCan also analyzed the values and ethics elements of the 2008 Public Service Employee Survey for its own employees.

4.77 AAFC has tracked the frequency of different types of conflict of interest queries and self-declarations. It noted that these communications increased after public servants received awareness sessions and annual reminders. It also noted that the types of situations reported in self-declarations suggest that public servants now have a greater understanding of what a conflict of interest could be.

4.78 Canadian Heritage and HRSDC referred to their ratings on the values and ethics section of the Management Accountability Framework (MAF) as one way to assess how effective their efforts are in addressing conflicts of interest. We noted, however, that the MAF questions on values and ethics were not directly focused on conflict of interest.

4.79 The audited departments have taken some steps toward monitoring and assessing how effective their efforts are in this area. They have collected and analyzed data and have carried out program evaluations and internal audits. However, the approach has not been systematic. Such an approach would involve identifying desired outcomes, developing valid and reliable measures, establishing a baseline, and setting targets for improvement. In particular, the departments could make greater use of employee surveys. These and other measurement instruments are used in other jurisdictions and in the private sector to assess how effective methods are for helping employees avoid conflict of interest.

Conclusion

4.80 Avoiding situations that could lead to a conflict of interest—or the appearance of a conflict of interest—is key to maintaining public confidence in the impartiality and objectivity of the public service. The three cases of conflict of interest that we examined in previous audits showed that certain elements for addressing conflicts of interest could be missing in the frameworks in departments. Our audit set out to

determine whether the Treasury Board of Canada Secretariat and five selected departments gave public servants the tools they needed to meet federal government responsibilities for addressing conflict of interest.

4.81 We found that while the Secretariat plays an important role related to conflict of interest, in our view it has not provided sustained support. Two areas that have suffered are guidance and training. Also, at the time of our audit, the new Code of Conduct and Conflict of Interest Policy were not yet in place, even though work on these documents began in 2007.

4.82 In the departments we audited, we found that the required mechanisms and assistance were in place for managing conflict of interest, and that designated senior officials have enough knowledge to meet their responsibilities for managing conflicts of interest. Departments have set up organizational units, designated senior positions, and given guidance and training to meet their obligations. They have put in place processes to deal with conflict of interest declarations, but need to follow up on required action and make sure that conflict of interest declarations are dealt with in a timely manner.

4.83 The three departments where we had found instances of conflict of interest in previous audits have addressed risks in the specific areas we audited. All of the departments we looked at have begun to appreciate the need to examine their entire organizations to identify the programs and functions where conflict of interest is likely to occur, so that they can avoid or reduce it in these areas.

4.84 To prevent serious cases of conflict of interest, the Secretariat needs to continue to support departments and agencies in identifying and managing serious cases of conflict of interest. This support will help departments to analyze risks and assess how effective their efforts are in this area. This collaboration is key to ensuring that issues are detected and addressed as early as possible, ideally before any wrongdoing can occur, and to preserving the credibility of the Canadian public service.

About the Audit

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagements set by The Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.

Objectives

The objectives of this audit were to determine

- whether the Treasury Board of Canada Secretariat provides the tools that departments need to meet federal government conflict of interest responsibilities, and
- whether the five selected departments have ensured that mechanisms and assistance are in place and that designated senior officials have enough knowledge to meet their responsibilities on the issue of conflict of interest.

Scope and approach

The audit examined conflict of interest policies, controls, mechanisms, and frameworks. We also examined how thoroughly the Secretariat and the departments have assessed the effectiveness of their conflict of interest activities. We looked at the knowledge levels of selected officials who have responsibilities for conflict of interest—generally, senior public servants at the executive level, including assistant deputy ministers. Three of the departments we examined—Agriculture and Agri-food Canada (AAFC), Natural Resources Canada (NRCan), and Public Works and Government Services Canada (PWGSC)—were selected because we found cases of conflict of interest in our recent audits. We added two other departments to our selection: Canadian Heritage, as an example of a small department focused on issuing grants and contributions, and Human Resources and Skills Development Canada (HRSDC), as an example of a department with a high dollar value of contracts and of grants and contributions. While we examined the frameworks in place in the departments, we did not audit individual cases.

The scope did not include ministers or other members of Parliament, officials appointed by the Governor in Council, lobbyists, or Crown corporations.

Our audit work included interviews with the Secretariat policy centre for values and ethics and with Secretariat officials in Procurement, Grants and Contributions, and Risk Management. We conducted interviews with values and ethics staff and other conflict of interest staff in the five departments. We also conducted structured interviews with 15 senior officials in the departments (senior designated officials for values and ethics, senior disclosure officers, and values and ethics champions). The goal of these interviews was to obtain information on the roles and responsibilities of these positions, determine their level of knowledge of conflict of interest responsibilities, and obtain views on the tools departments needed to meet their conflict of interest responsibilities. We used the same questions in each case to enable comparison.

We reviewed the Secretariat's and departments' documentation relating to conflict of interest and conducted a file review of 25 randomly selected files in three departments (5 from Canadian Heritage, 10 from NRCan, and 10 from PWGSC) to examine the process used to address specific conflict of interest declarations. We did not generalize from the three samples to their parent populations; accordingly, all the findings we report are based on these 25 sampled files.

We also reviewed the minutes and reports of the House of Commons Public Accounts Committee relating to our previous chapters that found cases of conflict of interest. Finally, to help inform our recommendations, we conducted research on the conflict of interest frameworks and guidance that are used in the Organisation for Economic Co-operation and Development, the Ontario and British Columbia governments, Australia, New Zealand, the United Kingdom, and two private sector companies.

Criteria

To determine whether the Treasury Board of Canada Secretariat provides the tools departments need to meet federal government conflict of interest responsibilities, we used the following criteria:	
Criteria	Sources
The Secretariat has in place policies, guidance, and other tools to meet its responsibilities for conflict of interest.	<ul style="list-style-type: none"> • <i>Financial Administration Act</i>, sections 7, 80, 81 • Foundation Framework for Treasury Board Policies • Treasury Board of Canada Secretariat Management Accountability Framework Criteria
The Secretariat assesses the effectiveness of its policies, guidance, and other tools for conflict of interest.	Values and Ethics Code for the Public Service
To determine whether the five selected departments have ensured that mechanisms and assistance are in place and that designated senior officials have enough knowledge to meet their responsibilities on the issue of conflict of interest, we used the following criteria:	
Criteria	Sources
The audited departments have adequate mechanisms and assistance to meet their conflict of interest responsibilities.	Values and Ethics Code for the Public Service
The audited departments have appropriate guidance and training on conflict of interest.	<ul style="list-style-type: none"> • Values and Ethics Code for the Public Service • Treasury Board of Canada Secretariat Integrated Planning Guide
The audited departments monitor the effectiveness of their conflict of interest activities.	Foundation Framework for Treasury Board Policies
The designated senior officials in the audited departments have sufficient knowledge of what constitutes conflict of interest and how it should be addressed in order to meet their responsibilities for conflict of interest.	Values and Ethics Code for the Public Service

Management of the selected entities reviewed and accepted the suitability of the criteria used in the audit.

Period covered by the audit

The period under audit was three fiscal years: 2007–08, 2008–09, and 2009–10. We chose this period so we could examine conflict of interest over a span of several years. Audit work for this chapter was substantially completed on 31 May 2010.

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Appendix List of recommendations

The following is a list of recommendations found in Chapter 4. The number in front of the recommendation indicates the paragraph where it appears in the chapter. The numbers in parentheses indicate the paragraphs where the topic is discussed.

Recommendation	Response
Role of the Treasury Board of Canada Secretariat	
4.28 The Treasury Board of Canada Secretariat should work with deputy heads to identify the common needs of their departments and agencies in the areas of policy advice and guidance for conflict of interest, and should support deputy heads in meeting those needs. (4.22–4.27)	The Secretariat’s response. Agreed. While recognizing that deputy heads have primary responsibility for managing conflict of interest within their organizations, the Secretariat will work with deputy heads of departments and agencies subject to the new Policy on Conflict of Interest and Post-employment to identify common needs for guidance on the management of conflict of interest and methods for meeting those needs.
4.34 The Treasury Board of Canada Secretariat should work with deputy heads to identify the common needs of departments and agencies for training that is related to conflict of interest, and should support deputy heads in meeting those needs. (4.29–4.33)	The Secretariat’s response. Agreed. While recognizing that deputy heads have primary responsibility for managing conflict of interest within their organizations, in partnership with the Canada School of Public Service, the Secretariat will work with deputy heads to identify the course material that should be modified or developed to respond to the coming into effect of the new Policy on Conflict of Interest and Post-Employment.

Recommendation	Response
<p>Implementation of conflict of interest measures in selected departments</p> <p>4.51 Agriculture and Agri-Food Canada, Canadian Heritage, Human Resources and Skills Development Canada, and Natural Resources Canada should put in place standards to ensure that conflict of interest declarations are addressed in a timely fashion, and that public servants take the required action to eliminate or reduce the conflict of interest. (4.47–4.50)</p>	
	<p>Agriculture and Agri-Food Canada’s response. Agreed. A review of the Values and Ethics Policy Centre activities has been completed. Service standards are being developed. In October 2010, the service standards will be communicated to employees, and performance against the standards will be tracked from that date.</p> <p>Canadian Heritage’s response. Agreed. The Department plans to determine and communicate a service standard to respond to conflict of interest enquiries by including the standard in the Human Resources Workplace Management Branch service standard document on the intranet site. It also plans to establish a follow-up system, with deadlines, if, in response to a potential conflict of interest, recommended actions must be taken by either the employee or management. The target date for these activities is October 2010.</p> <p>Human Resources and Skills Development Canada’s response. Agreed. The Department is taking corrective measures to address this observation. The Department is currently developing a standardized process, including service standards, which will ensure conflict of interest declarations are addressed in a timelier manner in the future. In addition, a “bring forward” administrative system will be implemented to ensure required action is taken by public servants to appropriately mitigate any areas of identified conflict of interest. A phased approach will be used to implement these standards by the target date of 31 December 2010.</p> <p>Natural Resources Canada’s response. Agreed. The Department has recently launched a Values and Ethics Program Framework built around five pillars: leadership, outreach, policies and procedures, guidance and advice, and oversight. This framework, along with the Department’s Corporate Risk Framework, is providing policy guidance, context, and coordination for departmental priorities and action related to conflicts of interest, including the management response to this audit.</p> <p>Consistent with the five pillars, the Department regularly advises on declaration obligations, most recently on 29 June 2010, and will continue to do so on an annual basis. The Department will also be establishing service standards to ensure that such declarations are addressed on a timely basis, with a target date of 31 December 2010 for establishing these service standards.</p>

Recommendation	Response
<p>4.64 Agriculture and Agri-Food Canada, Canadian Heritage, Human Resources and Skills Development Canada, Natural Resources Canada, and Public Works and Government Services Canada should develop an approach to risk assessment that includes identification and prioritization of risks, assessment and mitigation strategies, and residual risk assessment, in the key areas where major conflicts of interest could arise. (4.57–4.63)</p>	<p>Agriculture and Agri-Food Canada’s response. Agreed. The Department has completed a risk assessment for conflict of interest for 2010. It will use lessons learned from this process, along with any direction and guidance from the Treasury Board of Canada Secretariat on assessing conflict of interest risk, in future assessments.</p> <p>Canadian Heritage’s response. Agreed. By March 2011, the Department will develop an approach to perform a risk assessment that will identify key areas where major conflicts of interest could arise. The Department will also ensure that the risk assessment results are confirmed on a regular basis, as required.</p> <p>Human Resources and Skills Development Canada’s response. Agreed. The Department has conducted a preliminary department-wide risk assessment of values and ethics to validate key areas where major conflicts of interests could arise. Building on the results of the preliminary assessment, the Department will conduct further analysis to identify areas of high risk. Risks identified will be prioritized, and appropriate risk mitigation strategies will be developed to address each risk. Key deliverables and timelines for completion of those deliverables will be identified, and indicators to measure success of each risk mitigation strategy will be established. Finally, implementation of these strategies will be monitored and modified when necessary, with planned progress reporting on a bi-annual basis to senior management through corporate committees. A target date of March 2012 has been set for implementing this enhanced risk assessment and related strategies.</p> <p>Natural Resources Canada’s response. Agreed. As noted in this report, the Department has taken steps to assess risks for conflict of interest. It has launched a corporate risk profile, which is a departmental risk assessment process, to identify, assess, and prioritize corporate-level risks and mitigation strategies. This will include but is not limited to conflict of interest. The corporate risk profile clarifies governance and accountabilities, and fosters employee engagement, training, and risk awareness. The Department will build on this work to more fully and systematically assess potential risk areas.</p> <p>Specifically, through the Values and Ethics Program Framework and its corporate risk profile, the Department has identified its transfer payment (grant and contribution) programs as the highest conflict of interest risk area. The Department has established a</p>

Recommendation	Response
	<p>Centre of Expertise in the Human Resources Branch for Values and Ethics and identified a Values and Ethics Champion at the assistant deputy minister level. The Department's Values and Ethics Champion, managers, and the Centre of Expertise provide advice and guidance to eliminate or reduce conflict of interest. Additionally, the Department added three conflict of interest clauses to its contribution agreements to avoid conflict of interest situations involving employees and recipients.</p> <p>The second conflict of interest priority risk area for the Department is Science and Technology (S&T). An S&T Conflict of Interest Working Group was created and mandated through established terms of reference to focus its efforts in assessing the Department's needs, elaborate relevant working tools, and provide direction on S&T collaboration. Working Group recommendations will be fully implemented by the end of the 2010–11 fiscal year.</p> <p>The third conflict of interest priority area for the Department is contracting and human resources services. By 31 March 2011, the Department will establish guidelines regarding the hiring of former public servants.</p> <p>Public Works and Government Services Canada's response. Agreed. The Department has developed a robust approach to risk assessment that includes identification and prioritization of risks; assessments and mitigation strategies; and residual risk assessment. The Department's draft operational risk profile will be finalized by the end of December 2010 and will pay special attention to risks relating to conflict of interest. The Department will use the operational risk profile to refresh its corporate, branch, and regional risk profiles. In addition, the Department will revise the risk categories annex of its Policy on Integrated Risk Management to include conflict of interest risks. It will include these risks in the Department's Risk Management Guide, as well as the training courses for its executives (half-day training session) and for managers and supervisors (one-day session).</p>

Recommendation	Response
<p>4.65 Once they have identified high-risk areas through an appropriate risk assessment process, Agriculture and Agri-Food Canada, Canadian Heritage, Human Resources and Skills Development Canada, Natural Resources Canada, and Public Works and Government Services Canada should require public servants in identified high-risk areas to report regularly, whether or not they have a conflict of interest. (4.57–4.63)</p>	<p>Agriculture and Agri-Food Canada’s response. Agreed. Once the Department has identified its areas at high risk for conflict of interest, it will implement a process where public servants occupying high risk positions in those areas attest regularly that they understand their obligations under the Values and Ethics Code for the Public Service and indicate whether or not they need to submit or update their Confidential Report. Phased implementation will begin in April 2011 in conjunction with the implementation of the new Values and Ethics Code for the Public Service.</p> <p>Canadian Heritage’s response. Agreed. Once the Department has identified its areas at high risk for conflict of interest, it will implement a new reporting process. Public servants occupying high risk positions will be required to attest regularly that they understand their obligations under the Values and Ethics Code for the Public Service. They will also be required to indicate whether or not they need to submit or update their confidential declaration. The target date for these activities is June 2011.</p> <p>Human Resources and Skills Development Canada’s response. Agreed. In addition to conducting a robust risk assessment exercise as outlined in the Department’s response to the previous recommendation, the Department has initiated the development of an automated confidential report submission process for attestations by its employees. When fully implemented, this process will complement the enhanced risk-assessment exercise currently underway. The attestation will also include a declaration as to whether information submitted in previous confidential report submissions provided to the Department needs to be re-submitted or updated. The target date for launching the pilot phase of the automated confidential report submission system is September 2010. The target date to automate the attestation process for individuals working in identified high risk areas is April 2011.</p> <p>Natural Resources Canada’s response. Agreed. The Department’s Values and Ethics Program Framework includes the implementation in 2010–11 of a process where public servants in high risk positions attest regularly as to whether they are in a situation that could present a conflict of interest. As per the Values and Ethics Code for the Public Service, employees faced with conflict of interest situations are required to submit a confidential report, which is then</p>

Recommendation	Response
<p>4.72 Canadian Heritage, Human Resources and Skills Development Canada, Natural Resources Canada, and Public Works and Government Services Canada should ensure that their training is based on the conflict of interest risks that staff in specific areas face as they carry out their duties; the training should include case studies and scenarios in these areas. (4.66–4.71)</p>	<p>assessed by the Department's Values and Ethics Centre of Expertise. As appropriate, an action plan is developed and implemented to mitigate risks.</p> <p>Public Works and Government Services Canada's response. Agreed. Once the Department has identified its areas at high risk for conflict of interest, it will implement a reporting process. Public servants occupying positions in those high risk areas will be required to attest, at an interval appropriate to the risk exposure, that they understand their obligations under the Values and Ethics Code for the Public Service. They will also indicate whether or not they need to submit or update their confidential declaration.</p> <p>Canadian Heritage's response. Agreed. From April 2011, the Department will ensure that conflict of interest training and/or awareness sessions that it provides are based on risk areas identified within the risk assessment and include cases and scenarios related to these areas.</p> <p>Human Resources and Skills Development Canada's response. Agreed. The Department recognizes the benefit of developing training that takes into consideration conflict of interest risks that staff in specific areas face as they carry out their duties. The Department further recognizes that improvements can be made to the values and ethics training program it currently has in place, and it will take steps to do so. More specifically, the Department's Office of Values and Ethics, in partnership with Human Resources Services Branch and the Service Canada College, is currently developing training material on conflict of interest to inform employees on avoidance, prevention, and resolution of conflict of interest situations.</p> <p>Further, plans are being developed to ensure that orientation sessions for new employees include realistic case studies, scenarios that new employees would be expected to encounter day to day, and practical strategies for resolution. A draft tool entitled Practical Solutions for Public Servants, designed to assist public servants make ethical decisions, assess post-employment situations, and determine situations that could give rise to conflict of interest, is also being tested. Testing is expected to continue until January 2011, when the Department will determine rollout and implementation.</p>

Recommendation	Response
	<p>Finally, the Department will continue to use the intelligence gained from other activities (for example, Special Investigations Unit outcomes) to ensure its training continues to focus on risk areas specific to its mandate.</p> <p>Natural Resources Canada's response. Agreed. The Department's Values and Ethics Program Framework includes conflict of interest employee training. The Department has achieved increasing levels of values and ethics awareness and understanding among managers and employees across the Department. For example, it holds employee engagement sessions, including case studies that address values and ethics as well as conflict of interest situations and appropriate responses. These case studies are and will continue to be updated to ensure they reflect realistic and specific situations related to risks that may be encountered.</p> <p>The Department's key values and ethics activities planned for the 2010–11 fiscal year include the following:</p> <ul style="list-style-type: none"> • leadership and employee engagement; • outreach and partnering with the Department's communities of practice and with social media technologies, developing a departmental code of conduct; • policies, procedures, and processes to address the Department's needs (for example, establish service standards to address conflict of interest issues); • guidance and advice to ensure awareness of and conformity to the values and ethics code (guidelines for gifts, hospitality, and other benefits); and • oversight (monitoring and evaluation) of the values and ethics program's effectiveness and efficiency (for example, assessing the Department's ethical climate through an internal survey). <p>Public Works and Government Services Canada's response. Agreed. The Department is offering training that includes cases and scenarios developed and geared directly toward certain risks identified within a particular area of the Department's operations. For example, the training provided to Parliamentary Precinct Branch employees in May and June 2009 included scenarios for discussion geared to the types of contracting conducted within the branch. Similar training based on identified risks was also delivered within other areas of the</p>

Recommendation	Response
	<p>Department in November 2009 and March 2010. Once the risks in key areas where major conflicts of interest could arise have been identified and prioritized, the Department will review its training program to ensure the program is based on the conflict of interest risks that staff in specific areas could face as they carry out their duties. The Department will also ensure that its updated training program includes relevant cases and scenarios, where appropriate.</p>

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