



Public Service Commission
of Canada

Commission de la fonction publique
du Canada



Report on the Agreement on the Follow-up to the Audit of the Immigration and Refugee Board of Canada

A report by the Public Service
Commission of Canada

October 2011

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Cat. No. SC3-158/2011E-PDF
ISBN 978-1-100-19424-0

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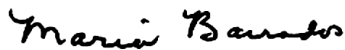
Minister of Canadian Heritage and Official Languages
House of Commons
Ottawa, Ontario
K1A 0A6

Dear Minister:

We have the honour of asking you to transmit for tabling in Parliament the Special Report of the Public Service Commission of Canada, *Report on the Agreement on the Follow-up to the Audit of the Immigration and Refugee Board of Canada*.

It is submitted in accordance with sub-section 23(3) of the *Public Service Employment Act*, (S.C. 2003, c. 23, ss.12, 13, as amended).

Yours sincerely,



Maria Barrados
President



Manon Vennat
Commissioner

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Context

Background

1. In October 2009, the Public Service Commission (PSC) tabled the results of its audit of the Immigration and Refugee Board of Canada (IRB). The audit found deficiencies in the organization's systems and practices in the areas of human resources (HR) planning, monitoring and HR support to sub-delegated managers in the central region. The audit also raised concerns about the compliance of the IRB's appointments and appointment processes with the *Public Service Employment Act* (PSEA), the PSC Appointment Framework and other governing authorities.
2. Following the 2009 audit, which indicated that the IRB needed to improve its staffing practices, the PSC and the IRB signed an agreement stating that the IRB would report to the Commission on the implementation of the recommendations in the 2009 audit report and that the PSC would continue to audit appointments as they were made by the IRB for a period of one year (July 2009 to June 2010), to provide more assurance on the compliance of appointments (**See Appendix 1**). The document also indicated the IRB's agreement that the PSC could investigate any internal appointment process identified in the IRB audit and that the IRB would implement appropriate corrective actions upon receipt of the PSC's investigation reports.

Purpose and methodology of the report

3. As stipulated in Article 8 of the agreement between the two organizations, the purpose of the current publication is to report on the terms of the agreement (Articles 1 to 7). This report includes observations made by the PSC's Audit and Data Services, Investigations and Policy branches, as they relate to the signed agreement.
4. For the audit portion of the report, a sample of advertised and non-advertised appointments for the period from July 1, 2009, to June 30, 2010, was examined. While the 2009 audit raised issues concerning the appointment of former Governor-in-Council (GIC) employees, the current report could not comment on this issue, as no former GIC appointments were made during this audit period. No further audit work was conducted to determine whether the IRB had an appropriate framework, systems and practices in place to manage its appointment activities.
5. The 2009 audit resulted in 13 files being referred to investigation. Twelve of these investigations have been completed. Three additional appointments were also identified for investigation following the ongoing audit of the IRB (under Article 3 of the agreement). One was investigated by the PSC, while the IRB initiated investigations into the other two cases. Additional details about the audit methodology and investigation work are found in **About the report** at the end of this publication.

Summary of observations

6. As per the signed agreement, the IRB had developed an action plan and reported to the PSC on the implementation of the recommendations from the original 2009 audit. The IRB's Departmental Staffing Accountability Report results for 2010-2011 show that IRB has taken action and demonstrated improvements against the audit recommendations made in the 2009 audit report.
7. The PSC's audit work, conducted for a period of one year (July 2009 to June 2010), revealed that the IRB's appointments and appointment processes largely comply with the PSEA, the PSC Appointment Framework and other governing authorities. The review of the IRB's appointment processes indicated that merit was met in almost all of the appointments that were audited. It was found that all but one rationale for non-advertised processes demonstrated that the guiding values were respected. However, in 2 out of 37 of the appointment processes audited, indicators of either error, omission or improper conduct were found.
8. The Commission referred all files in which issues were identified either to its Investigations Branch or to the Chairperson of the IRB for appropriate consideration and action, as required. As noted in the signed agreement (Article 2), the IRB had agreed to implement appropriate corrective measures upon receipt of the reports of any investigation.
9. Thirteen files were identified for investigation following the 2009 audit. Three additional appointments were identified for investigation following the ongoing audit, one of which was conducted by the PSC while two remain ongoing with the IRB. Thus, in total, investigations were started into 16 files, 14 by the PSC and 2 by the IRB. The PSC has completed 13 investigations, and identified errors or improper conduct in 11 instances. In two instances, the PSC concluded that there was no evidence of error, omission or improper conduct. One investigation remains ongoing by the PSC, and two remain ongoing at the IRB.
10. The agreement between the PSC and the IRB provided for the PSC to conduct investigations on internal IRB appointment processes (Article 1) and that the IRB would implement appropriate corrective actions (Article 2). The IRB, however, questioned the PSC's investigations procedures, alleging that they are flawed and that they violate procedural fairness.
11. The IRB disagreed with the PSC's investigation findings and/or corrective actions in the majority of cases, except for instances where the conclusion was unfounded. This was due to their belief that PSC investigations violate procedural fairness. The IRB also alleged that many investigation reports contain conclusions that are based on opinions and beliefs rather than facts or evidence. As a result, there was little or no agreement on what corrective actions were deemed appropriate in most cases where corrective actions were ordered or recommended.

Organizational background

Immigration and Refugee Board of Canada

12. The IRB is Canada's largest independent administrative tribunal. It was created on January 1, 1989, following an amendment to the *Immigration Act*. In 2002, the *Immigration Act* was replaced by the *Immigration and Refugee Protection Act* (IRPA). The IRB's mission is to resolve immigration and refugee cases efficiently, fairly and in accordance with the law. Among its other responsibilities, the IRB decides which of the thousands of claimants who come to Canada annually require refugee protection.
13. The IRB consists of three divisions, each of which has its own mandate under the IRPA:
 - The Refugee Protection Division, whose mandate is to decide claims for refugee protection made by persons in Canada;
 - The Immigration Division, which conducts admissibility hearings and detention reviews; and
 - The Immigration Appeal Division, whose mandate is to hear appeals of sponsorship applications, appeals from certain removal orders, appeals concerning residency obligations and appeals by the minister about decisions of the Immigration Division at admissibility hearings.
14. The *Balanced Refugee Reform Act*, which received Royal Assent on June 29, 2010, marked the beginning of a transition period during which the IRB is making the necessary preparations for the Act's implementation. As required by the new legislation, the IRB is implementing two new divisions, as well as various new processes in support of these new divisions. The IRB carries out its work in a complex environment, where factors such as refugee movements and shifting migration patterns influence the number and types of cases received. With the implementation of the new Act, the IRB has identified that it is currently facing new HR priorities and staffing challenges.
15. In 2010-2011, the IRB had an annual budget of about \$117 million and employed 1 025 full-time equivalents, including both public service employees and GIC appointees. IRB employees work mostly outside the National Capital Region.

Public Service Commission

16. The PSC is responsible for the administration of the PSEA. This Act gives the PSC exclusive authority to make appointments to and within the public service. Appointments by the PSC must be made on the basis of merit and be free from political influence. The PSEA further allows the PSC to delegate to deputy heads its authority for making appointments, as well as other appointment-related authorities, and for taking corrective action in internal appointments. During the period covered by the current publication, the IRB was headed by two chairpersons. The PSC signed an Appointment Delegation and Accountability Instrument with each Chairperson of the IRB in office during that period, delegating appointment and appointment-related authorities. Each Chairperson had full delegation authority during the period in which the work related to the current publication was conducted.

Observations on the terms of the agreement

Appointments investigated by the Public Service Commission (Articles 1 and 2)

17. Following the 2009 audit, the PSC and the IRB signed an agreement stating that, for a period of one year:
 - (Article 1) The IRB agrees that, as provided in subsection 67(2) of the PSEA, the PSC may investigate any internal appointment process identified in the audit of the IRB; and
 - (Article 2) The IRB shall implement appropriate corrective measures upon receipt of the report of the investigation under Article 1.
18. Thirteen files were identified for investigation following the original 2009 audit, and three additional appointments were identified for investigation following the ongoing audit. The PSC conducted 14 of these 16 investigations, (13 from original audit and 1 from the ongoing audit) while the IRB initiated 2 investigations (from the ongoing audit). It should be noted that, of the three appointments identified for investigation following the ongoing audit, two of these processes were conducted in 2007, prior to the implementation of the IRB Action Plan that resulted from the 2009 audit.
19. The PSC's procedures provide organizations and affected individuals with an opportunity to tell their version of the facts, to comment on all relevant facts gathered during the investigation and to make submissions on the facts and the applicable legal test prior to the investigation report being issued. Once the report has been issued, individuals and organizations may comment on the analysis, conclusions and any proposed corrective actions before a final decision on corrective actions is made by the Commission. The IRB has alleged that PSC investigation procedures are flawed and that they violate procedural fairness. Specifically, the IRB believes that prior to the reports being issued all affected parties should have an opportunity to provide comments on the analysis and conclusions of the investigations.
20. The PSC disagrees with the IRB's assertion and believes that its procedures provide adequate procedural fairness to organizations and affected individuals. These procedures have been used by the PSC since the PSEA came into force and have been supported in numerous court reviews.
21. The result of this difference of opinion is that the IRB did not agree with the conclusions of the majority of the PSC investigations, nor with the proposed, ordered or recommended corrective actions. The IRB indicated that it could not agree owing to a flawed process where many of the investigation reports contained conclusions based on opinions and beliefs rather than facts or evidence.

22. The PSC disagrees with the IRB’s assertions and reiterates that investigations follow the principles of procedural fairness as well as operational procedures that have been supported in numerous court reviews. Its investigation analyses and conclusions are based on the evidence obtained by the investigator during the fact gathering. Conclusions are reached on a balance of probabilities.

Figure 1: Results of 14 IRB files referred to PSC investigations

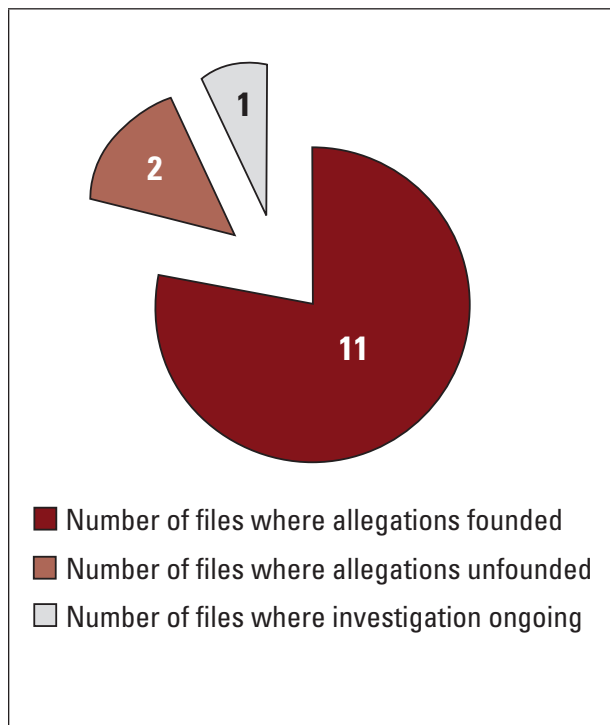
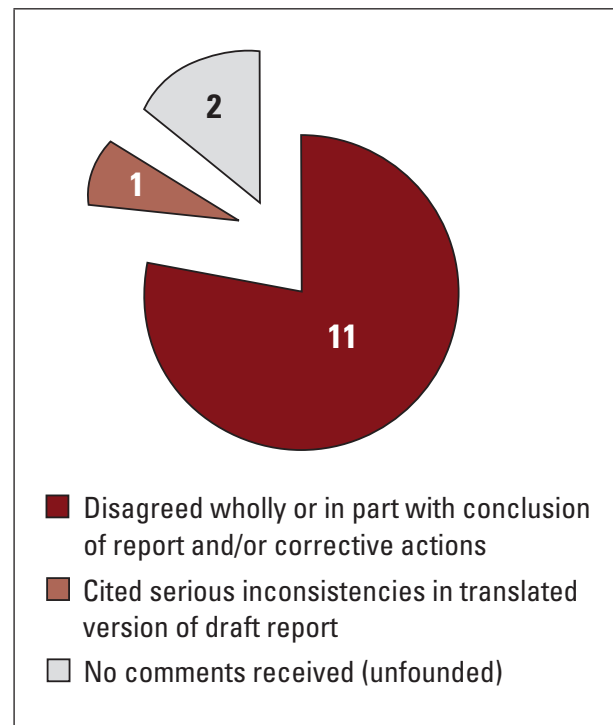


Figure 2: Comments received from the IRB



Status of files investigated

23. As indicated in the above figures, the majority of the completed investigations undertaken by the PSC were founded. Also in the majority of cases, the IRB did not agree, either wholly or in part, with the conclusions of the PSC report and/or with the proposed, ordered or recommended corrective actions. In two instances where the allegations were determined to be unfounded, no comments were provided by the IRB.
24. In the case that remains ongoing and is being investigated by the PSC, the IRB did not agree with the quality of the translated factual report, citing serious inconsistencies between the French and English versions. Accordingly, the PSC initiated a professional review of the documents to ensure their quality. No problems of any significance were identified. The IRB maintains that the report was problematic.
25. **Appendix 2** provides a summary of the status of individual investigations conducted by the PSC and the IRB.

Observations following investigations

26. In implementing the agreement with the IRB, the PSC experienced several issues of concern. Specifically:
- The IRB accepted very few of the conclusions of the PSC's investigations. The IRB indicated that it could not agree with the majority of the corrective actions resulting from the conclusions of the investigation owing to their belief that the investigations procedures were (and remain) flawed;
 - The IRB implemented the corrective actions ordered or recommended only when the actions did not directly impact individuals still working within their organization;
 - The IRB has indicated to the PSC that corrective action was ordered in very few investigations carried out by the PSC and that it has complied with those orders. In fact, in many cases corrective actions were not ordered in founded cases because individuals had left the public service (**see Appendix 2**);
 - In addition to challenging procedure and conclusions, the IRB challenged other elements, such as refusing to accept a translated factual report that has since been found by a professional review to contain no errors of significance;
 - The PSC notes that the IRB initiated investigations into two internal appointments identified in the ongoing audit. These investigations were commenced early in 2010. The Commission has not been informed of any outcome in these investigations and understands that they remain ongoing; and
 - There are several completed PSC investigations that directly involved the Chairperson of the IRB and where the PSC has provided recommended corrective action. In their response, the IRB did agree that certain errors and omissions had occurred. They did not, however, agree that improper conduct had occurred. They did not accept the recommended corrective actions (revocation of the appointment and a new advertised appointment process) and decided to implement separate corrective actions (reassessment of the appointee and written justifications for the choice of appointment processes).
27. The IRB has advised the PSC that, because it believes that the PSC's investigation procedures are flawed, it is unable to accept the conclusions of PSC investigations in many of the files. The PSC firmly believes that its investigations procedures respect procedural fairness. Given this disagreement between the two organizations, the PSC finds it difficult to report fully on the terms of this agreement as they relate to its investigations. In the view of the PSC, broader issues of concern remain unresolved. Particularly, while the IRB alleges that it does not challenge the PSC's right to conduct investigations, it has indicated that it is unable to accept the conclusions of the majority of investigations. Thus, the PSC believes that adequate resolution of issues identified through the investigations conducted has been difficult or impossible to achieve, particularly in cases where it investigated on behalf of the IRB under section 67(2) (see paragraph 47).

Appointments audited by the Public Service Commission (Articles 3, 4 and 5)

28. As per the agreement signed with the IRB, the Commission continued to audit appointments as they were made by the IRB for a period of one year (July 2009 to June 2010) (Article 3). The IRB provided access to all appointment information for the purpose of the audit (Article 4). The IRB also provided access to all appointment information, space, facilities and support necessary for the PSC's audit of appointments (Article 5).

Observations on appointments audited

Merit was met in almost all of the appointments reviewed

29. The PSC expected the IRB's appointments and appointment processes to comply with the PSEA, the PSC Appointment Framework and any other governing authorities, including organizational policies.
30. Section 30 of the PSEA establishes that appointments must be made on the basis of merit. Merit is met when the Commission is satisfied that the person to be appointed meets the essential qualifications for the work to be performed, as established by the deputy head, and, if applicable, any other asset qualifications, operational requirements or organizational needs established by the deputy head.
31. Merit was met in 92% (34 out of 37) of the appointments we audited. In 5% (2 out of 37) of the appointments, merit was not demonstrated. In 3% (1 out of 37) of the appointments, merit was not met. **Table 1** provides a summary of PSC observations concerning merit for the appointments audited since the original 2009 audit.

Table 1: Observations on merit

Observations		Number of appointments by process type		Total
		Advertised	Non-advertised	
Merit was met	Assessment tools or methods evaluated the essential qualifications and other merit criteria identified for the appointment; the person appointed met these requirements.	28 (90%)	6 (100%)	34 (92%)
Merit was not demonstrated	Assessment tools or methods did not demonstrate that the person appointed met the identified requirements.	2 (7%)	0 (0%)	2 (5%)
Merit was not met	The person appointed failed to meet one or more of the essential qualifications or other applicable merit criteria identified.	1 (3%)	0 (0%)	1 (3%)
Total appointments audited		31 (100%)	6 (100%)	37 (100%)

Source: Audit and Data Services Branch, Public Service Commission

32. In the appointments audited for which merit was not demonstrated, either the assessment did not fully evaluate one or more of the essential qualifications or the assessment, or parts of the assessment, were initially not performed and, therefore, did not support appointment decisions. For one of the appointments where merit was not demonstrated, the IRB subsequently provided the PSC with an assessment that was done in February 2010 and that evaluates the essential qualifications identified for the appointment.
33. In addition to the representative sample of 37 advertised and non-advertised appointments, a purposeful sample of 25 acting appointments was reviewed. The audit revealed that merit was met in 22 of the 25 acting appointments audited; one did not meet merit and two did not demonstrate that merit was met. The appointment that did not meet merit is being investigated by the IRB. For the two appointments where merit was not demonstrated, the IRB subsequently provided the PSC with additional information on assessments, which now evaluate the essential qualifications identified for the appointment.

Two appointment processes had indicators of either error, omission or improper conduct

34. The PSC requires that the selection and appointment of an individual be based on merit and respect the guiding value of fairness, transparency, access and representativeness. The appointment files must demonstrate that these values were respected throughout the appointment process.
35. In 5% (2 out of 37) of the appointment processes we reviewed, we found one or more indicators of either error, omission or improper conduct which could jeopardize the guiding values, particularly the value of fairness. These appointment processes were characterized by the following:
 - The passing mark was lowered during the process, which favoured the person appointed;
 - Persons who applied for an external advertised process and who seemed to have the required qualifications were eliminated at the screening stage, reducing the number of potential candidates; and
 - The person appointed had already occupied the position, and/or there was a staged evolution of the employee, i.e. a transformation of their employment status from casual worker to term employee, then to an indeterminate employee.
36. In the two of these appointment processes, merit was either not met or not demonstrated.
37. **Exhibit 1** presents an example of an appointment process with indicators of either error, omission or improper conduct.

Exhibit 1: Appointment process with indicators of either error, omission or improper conduct

In the case of an internal advertised appointment for an indeterminate position, the person appointed was screened into the process despite not having the required experience. In addition, the passing mark for one of the knowledge factors was lowered while the process was under way, which allowed the person appointed to meet this essential qualification and continue with the process.

Source: Audit and Data Services Branch, Public Service Commission

The guiding values were respected in all but one non-advertised process

38. According to the PSC *Choice of Appointment Process Policy*, non-advertised appointments must be accompanied by a written rationale demonstrating how the process meets the organization's established criteria and the guiding values.
39. In response to the PSC's 2009 audit, the IRB implemented a template to help sub-delegated managers and HR advisors conduct a non-advertised process. The review of 6 non-advertised appointment files demonstrated that 100% (6 out of 6) of the rationales for these processes respected the criteria established by the IRB for choosing a non-advertised process. Our audit work also revealed that 83% (5 out of 6) of the rationales we reviewed demonstrated that the guiding values of fairness, access, transparency and representativeness were respected.

Other audit observations

40. The letter of offer is the official appointment document outlining the terms and conditions of employment, as well as the duration of the appointment. No individual should be working on federal public service premises without a letter of offer or a contractual agreement duly signed by the candidate and the authorized sub-delegated manager.
41. The PSC's audit work revealed that 11% (4 out of 37) of the IRB's letters of offer were signed by a manager who had not received the required sub-delegated authority. The IRB has subsequently provided the PSC with new letters of offer, which were issued and signed by a manager who has the necessary sub-delegated authority.

The Immigration and Refugee Board of Canada reported to the Public Service Commission (Articles 6 and 7)

42. As per the signed agreement, the IRB developed an action plan and reported to the PSC on the implementation of the recommendations from the original 2009 audit through its Departmental Staffing Accountability Report (DSAR) in both 2009-2010 and 2010-2011 (Article 6). As per this same agreement, the PSC provided the IRB with access to a strategic staffing consultant (Article 7).

Conclusion

43. The current publication has reported on the terms of the agreement between the PSC and the IRB (Articles 1 to 7). This report includes observations made by the PSC's Audit and Data Services, Investigations and Policy branches, as they relate to the signed agreement.
44. The PSC's audit work revealed that the IRB's appointments and appointment processes largely comply with the PSEA, the PSC Appointment Framework and other governing authorities. The review of the IRB's appointment files indicated that merit was met in almost all of the appointments audited. In two of the appointment processes reviewed, indicators of either error, omission or improper conduct were found. Finally, it was found that all but one rationale for non-advertised processes demonstrated that the guiding values were respected.
45. Over the course of its audit work, the IRB provided to the PSC access to all appointment information, space, facilities and support necessary for the PSC's audit of appointments.
46. The IRB believes that the PSC's investigations procedures are flawed. Accordingly, the IRB agreed with very few of the conclusions of the PSC's investigations, or with the recommended corrective actions. The PSC believes that its investigations were conducted appropriately and reiterates that they follow the principles of procedural fairness as well as operational procedures that have been supported in numerous court reviews.
47. The PSC is concerned about the impact of this disagreement on the Commission's overall responsibility for ensuring an effective staffing system that includes appropriate recourse. Under the PSEA, deputy heads are delegated the authority to staff from outside the public service (external staffing), but the PSC retains the power to investigate these external processes and order corrective actions, when necessary. For appointment processes staffed from within the public service (internal staffing), the PSEA delegates to deputy heads the authority to make appointments and to investigate and order corrective actions. In cases where the PSC is of the opinion that the delegated authority is not properly exercised, the Commission can withdraw the entire delegation, impose conditions on it or seek exclusion to it. The PSC believes that internal appointment investigations must still conform to the values of the PSEA, including that all public service appointments be based on merit. The PSC believes that it will need to find ways to ensure that it plays a greater role in addressing issues that affect the independent safeguarding of merit and the guiding values.
48. As a result, the PSC is in the process of developing recommendations for an exclusion from the PSEA and its regulations whereby internal investigations and corrective actions will be the responsibility of the PSC rather than of the deputy head of the IRB.

49. As per the signed agreement, the IRB developed an action plan and reported to the PSC on the implementation of the recommendations from the original 2009 audit through its DSAR in both 2009-2010 and 2010-2011. The IRB's DSAR results for 2010-2011 have shown that IRB has taken action and demonstrated improvements against the audit recommendations made in the 2009 audit report.
50. To ensure that appointments are based on merit while respecting the guiding values, the IRB should continue to implement the action plan it has developed and monitor the plan's application. This is especially critical in light of the organizational changes resulting from the implementation of the *Balanced Refugee Reform Act* adopted in June 2010.

Overall response of the Immigration and Refugee Board of Canada

The IRB understands that the purpose of a staffing audit is to determine whether an organization has the appropriate framework, systems and practices in place to manage its staffing activities, and to determine whether appointments comply with the Public Service Employment Act (PSEA) and other governing authorities and policies. The Public Service Commission's (PSC) audit of IRB staffing activities uncovered weaknesses in a number of areas and provided the IRB with a valuable opportunity to improve its staffing practices. In response, the IRB developed and implemented an action plan, which the PSC has recognized as resulting in improvements in all areas touched on by the audit recommendations.

However, the IRB had grave concerns regarding the fairness of the procedures governing the investigations undertaken by the PSC following its audit, and we were left with no choice but to seek judicial review to ensure that adversely affected individuals' right to comment on an investigator's analysis and conclusions prior to its finalization was respected. The IRB agreed to withdraw the judicial review in exchange for the PSC's agreement to give those affected the opportunity to comment on the final investigation report and any proposed corrective measure before acceptance of report and measures by the PSC.

About the report

Audit

Scoping considerations

Our audit work covers appointment activities and related decisions within the IRB for the period from July 1, 2009, to June 30, 2010. The objective of the audit was to determine whether the IRB's appointments and appointment processes complied with the PSEA, the PSC Appointment Framework and other governing authorities.

The focus of the audit was on appointments; therefore, no further audit work was conducted to determine whether the IRB had an appropriate framework, systems and practices in place to manage its appointment activities. Audit activities focused on the examination of appointment processes selected for audit. Other audit activities included discussions with the IRB's HR specialists involved in appointment activities.

Sample selection

The audit covered advertised and non-advertised appointments for the period from July 1, 2009, to June 30, 2010. Beginning in July 2009, sampling of IRB appointments was done at the beginning of each of four quarters; the overall objective was to produce representative samples of various segments of appointments. The sampling strategy used in the first quarter was relatively conservative. With each quarter, the risks associated with appointments were re-evaluated, and the sampling plan was modified based on data collected.

The general strategy used was to review 100% of the files considered high-risk, and to re-evaluate the level of risk on a quarterly basis. For all other types of appointment, a sample of files would be reviewed (prior to the fourth quarter, approximately 50% of files were examined). At the beginning of the audit, all appointments of former GIC employees, EX appointments, those performed in Toronto and all external appointments were considered high-risk and subject to a census. By the fourth quarter, only appointments of former GIC employees, EX appointments and external non-advertised appointments were considered high-risk and subject to a census. No appointments of former GIC employees were made during the audit period.

In addition to the representative samples of advertised and non-advertised appointments, a purposeful sample of 25 files was selected from acting appointments. **Table 2** provides details of the types of appointment processes audited.

Table 2: Appointments audited

Representative samples	Sample/population
Advertised	31*/61
Non-advertised	6*/7
Total	37*/68
Purposeful sample	
Acting appointments	25/98

Source: Audit and Data Services Branch, Public Service Commission

Representative samples: Assuming a measured deviation rate of 20% or less, we can expect a confidence interval equal to or less than 10% at a confidence level of 90%. This allows for unqualified reporting of audit findings for cells marked with an asterisk.

Investigations

Further to the original PSC audit of the IRB in 2009, an agreement was signed between the two organizations in October 2009. In this agreement, the IRB undertook to improve staffing practices within their organization in consideration of the PSC suspending any conditions to the instrument of delegation. It was agreed that, for a period of one year, the PSC could investigate any internal appointment process identified in the audit and that the IRB would implement appropriate corrective measures upon receipt of the investigation reports. The PSC was also able to continue auditing appointments made by the IRB, as deemed necessary by the Commission.

Thirteen files were investigated by the PSC further to the original PSC audit of the IRB. An additional three appointments were investigated further to the ongoing audit. One of these was investigated by the PSC, while the others were investigated by the IRB.

Appendix 1


Agreement on the follow-up to audit of IRB

In consideration of the PSC suspending any further immediate conditions to the instrument of delegation following the audit of IRB and considering that the DH undertakes to improve staffing practices at IRB, it is agreed that for a period of one year:

1. The IRB agrees that as provided in subsection 67(2) of the PSEA, the PSC may investigate any internal appointment process identifies in audit of the IRB;
2. The IRB shall implement appropriate corrective measures upon receipt of the report of any investigation under 1;
3. The Commission will continue to audit appointments as they are made by the IRB as deemed necessary by the PSC upon proper notification and in accordance with standard practices;
4. The IRB shall provide access to all appointment information for the purpose of 3;
5. The IRB shall provide access the information, space, facilities and support reasonably necessary for the PSC to carry out its responsibilities under this agreement;
6. The IRB will report to the Commission on the implementation of the recommendations in the audit report within 6 months of the tabling of the report;
7. The Commission will provide the IRB with access to at least one PSC strategic staffing consultant for ongoing staffing; and
8. The Commission will report the terms of this agreement as it considers appropriate.


Maria Barrados
Public Service Commission

September 29, 2009
Date


Brian Goodman
Immigration and Refugee Board

October 5, 2009
Date

Appendix 2

Status of individual files investigated

File	Investigation conducted by	Completed/ongoing	Conclusion/corrective action (CA)	Comments/observations
Referred following 2009 audit	PSC	Completed	Founded – error No favouritism CA: Reassessment of appointee	IRB did not agree with conclusion of report. Judicial review commenced, then discontinued. Corrective actions implemented after court ruled against a “stay” request.
Referred following 2009 audit	PSC	Completed	Unfounded	None
Referred following 2009 audit	PSC	Completed	Founded – error No favouritism CA: None (manager retired and individual no longer in public service)	IRB did not agree with conclusion that an error was made.
Referred following 2009 audit	PSC	Completed	Founded – improper conduct; error CA: Revocation and possibility of reappointment	IRB did not agree with conclusion of improper conduct and did not agree with proposed corrective action.
Referred following 2009 audit	PSC	Completed	Founded – improper conduct; error CA: None (hiring manager has retired)	IRB did not agree with conclusion of improper conduct.
Referred following 2009 audit	PSC	Completed	Founded – error No favouritism CA: None (individual no longer in public service)	IRB did not agree with conclusion of error.
Referred following 2009 audit	PSC	Completed	Founded – error No favouritism CA: None (individual no longer in public service)	IRB did not agree with conclusion of error.
Referred following 2009 audit	PSC	Completed	Founded – error No favouritism CA: None (individual no longer in public service)	IRB did not agree with conclusion of error.
Referred following 2009 audit	PSC	Ongoing	N/A	IRB does not accept quality of translated factual report. Serious inconsistencies alleged. PSC initiated a professional review and there were no errors of significance identified in the translation.

File	Investigation conducted by	Completed/ ongoing	Conclusion/corrective action (CA)	Comments/observations
Referred following 2009 audit.	PSC	Completed	Founded – improper conduct; errors CA: Revocation of appointment; PSC to run advertised process	IRB agreed with error but not with improper conduct. Did not agree with recommended CA and decided on reassessment.
Referred following 2009 audit	PSC	Completed	Unfounded – improper conduct	None
Referred following 2009 audit	PSC	Completed	Founded – improper conduct; errors CA: Revocation of appointment; PSC to run advertised process	IRB agreed with error but not with improper conduct. Did not agree with recommended CA and decided on reassessment.
Referred following 2009 audit	PSC	Completed	Founded – improper conduct; errors CA: Revocation of appointment; PSC to run advertised process	IRB agreed with error but not with improper conduct. Did not agree with recommended CA and decided on reassessment.
Referred following ongoing audit	PSC	Completed	Founded – improper conduct CA: Revocation of appointment. Individual has since deployed. Current employer to reassess and could reappoint if qualified. Training for former IRB PE currently working at Public Works and Government Services Canada	Awaiting comments
Referred following ongoing audit	IRB	Ongoing	N/A	IRB initiated investigations on these two appointments in May 2010. No report has been provided to date.

