



Public Service
Staffing Tribunal

Tribunal de la dotation
de la fonction publique

Public Service Staffing Tribunal

2012-13

Departmental Performance Report

A handwritten signature in blue ink, reading "Shelly Glover", positioned above a horizontal line.

*The Honourable Shelly Glover, P.C., M.P.
Minister of Canadian Heritage and Official Languages*

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Chairperson's Message

I am pleased to present the 2012-13 Departmental Performance Report for the Public Service Staffing Tribunal.

The Tribunal's focus this year has been on improving the delivery of its services. This has been accomplished through the innovative use of settlement conferences and mediation services by telephone and videoconference. A pilot project for expedited hearings has also been implemented. These innovative processes have proven very effective in resolving complaints as well as reducing the human and financial resources required from parties.

The Tribunal has also increased the percentage of decisions issued within four months following a hearing by over 20% percent as compared to the previous year.



The Tribunal worked on the implementation of its new case management system, which marks a key turning point in how it manages its case management information. This new system, once fully operational in the fall of 2013, will enable the Tribunal to be up to date with technology and to ensure its case management needs are effectively met.

Each year the Tribunal faces the ongoing challenge of an unpredictable caseload, and in 2012-13 this trend continued. The Tribunal had anticipated an influx of lay-off complaints as a result of workforce adjustments occurring across government. However, at end of year, the number of lay-off complaints was less than anticipated and the majority of complaints continued to relate to appointment processes.

Despite these challenges, the Tribunal's performance and process improvements in adjudication and mediation services ensured parties obtained fair and impartial resolution of staffing disputes and helped foster a greater understanding of the staffing regime.

A stylized, handwritten signature in black ink, consisting of a large 'G' and a long horizontal stroke.

Guy Giguère
Chairperson and Chief Executive Officer

Section I: Organizational Overview

Raison d'être

The Public Service Staffing Tribunal (the “Tribunal”) is an independent, quasi-judicial body established under the Public Service Employment Act (PSEA) to address complaints related to internal appointments and lay-offs in the federal public service of Canada.

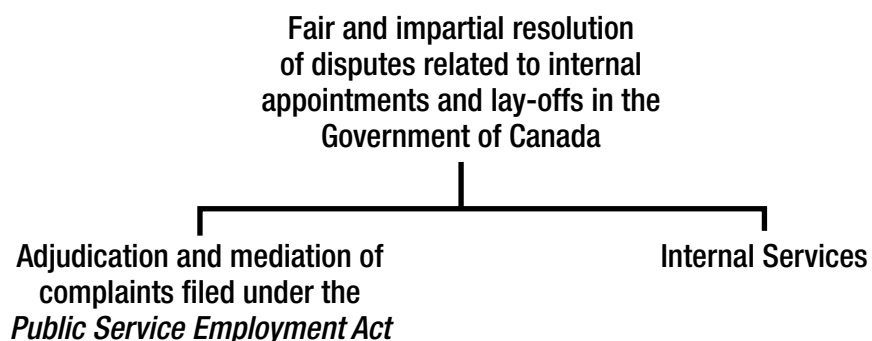
The Tribunal conducts hearings, settlement conferences and mediation sessions in order to resolve complaints. In fulfilling its mandate, the Tribunal fosters fair and transparent staffing practices, contributes to a public service that is based on merit, embodies linguistic duality and human rights, and strives for excellence.

Responsibilities

The Tribunal derives its mandate from the PSEA and is responsible for the impartial and timely consideration and disposition of complaints submitted under the Act with respect to internal appointment and lay-off processes in the federal public service of Canada.

By providing transparent, impartial and sound decision-making for complaints, as well as the support necessary to help parties resolve staffing disputes as informally as possible, the Tribunal is both accessible and responsive to its stakeholders – namely, deputy heads, human resources specialists, bargaining agents and public servants – and contributes to the effective management of human resources to the benefit of federal public service departments and agencies, managers, employees and Canadians at large.

Strategic Outcome and Program Alignment Architecture



Organizational Priorities

PRIORITY	TYPE	STRATEGIC OUTCOME
Timely issuance of decisions	Ongoing	Fair and impartial resolution of disputes related to internal appointments and lay-offs in the Government of Canada
SUMMARY OF PROGRESS		
<ul style="list-style-type: none"> • The Tribunal continues to fulfill its mandate by rendering decisions in a timely manner. • The Tribunal improved significantly the turn-around time for issuing decisions. In 2010–11, 27% of decisions were rendered within four months of a formal hearing. This increased in 2011-12 to 49%, and finally in 2012-13 to 72%. • The Tribunal consulted with its stakeholders on practices and processes and identified areas for improvement. • The Tribunal's expedited hearing process pilot project effectively provided more expeditious adjudication of less complex cases, and reduced the time required for hearings and written decisions. 		

PRIORITY	TYPE	STRATEGIC OUTCOME
Efficient and simplified processes	Ongoing	Fair and impartial resolution of disputes related to internal appointments and lay-offs in the Government of Canada
SUMMARY OF PROGRESS		
<ul style="list-style-type: none"> • The Tribunal improved the tools, policies and processes that assist in effectively resolving complaints and better managing the organization. • Strategies and tools, such as informal dispute resolution, settlement conferences and mediations have helped optimize the Tribunal's resources and proved successful. • The Tribunal's work to replace its case management system began in September 2012 and major configuration was completed by year end. The new system will improve and enhance information management capabilities and functionality to ensure case information management needs are effectively met. • The Tribunal implemented an expedited hearing process pilot project, which effectively provided more expeditious adjudication of less complex cases by reducing the time required for hearings and written decisions. 		

SUMMARY OF PROGRESS (continued)

- To improve the Tribunal's service delivery to clients and create savings and efficiencies, mediation sessions were increasingly conducted by telephone and videoconferencing. Information was made available on the Tribunal's website encouraging the use of new technologies for conducting mediation sessions.
- The Tribunal initiated a pilot project for distance training that will include a shorter training format, less travel cost and greater accessibility.

PRIORITY	TYPE	STRATEGIC OUTCOME
A workplace where people are valued and know the importance of their contribution	Ongoing	Fair and impartial resolution of disputes related to internal appointments and lay-offs in the Government of Canada
SUMMARY OF PROGRESS		
<ul style="list-style-type: none"> • The Tribunal offered staff development opportunities and continued to help staff improve skills and acquire new competencies geared to career development, to foster an engaged and healthy workplace, to help increase job satisfaction and productivity in support of the Tribunal's objectives. • Team building activities underscored the work and achievements of teams and individuals. • Staff were encouraged to review the new Values and Ethics Code and to actively participate in consultations to help develop the organizational code for the Tribunal as a means of contributing to maintaining and improving the quality of the workplace. A working group organized and delivered employee and member training for the new code. • Human Resources and Corporate Services implemented an Occupational Health and Safety Program and employee training. The Tribunal ensured that the specific health and safety components required at the Tribunal were incorporated into the program for employees. While the Tribunal as a micro agency faced inherent challenges in developing and implementing this important program, its launch and implementation was a significant accomplishment and success. • The Tribunal continued to revise its financial capabilities and procedures in order to streamline operations across the Tribunal. • A Business Continuity Plan was also put in place to ensure that the Tribunal would be able to continue its operations during emergency situations. 		

Risk Analysis

RISK	RISK RESPONSE STRATEGY	LINK TO PROGRAM ALIGNMENT ARCHITECTURE	LINK TO ORGANIZATIONAL PRIORITIES
<p>The unpredictability of caseload continued to be an ongoing challenge for the Tribunal.</p>	<p>This risk has been discussed in the 2012-13 RPP and persists from year to year.</p> <p>For example, in the year 2011-12, the Tribunal managed over double the caseload (as compared to the previous year). However, in 2012-13, the total number of complaints decreased to less than the 2011-12 level.</p> <p>The Tribunal anticipated an increase in the number and complexity of complaints based on staffing adjustments across government. However, the number of lay-off complaints did not increase in 2012-13.</p> <p>Information on lay-off complaints was posted on the Tribunal's website to explain and simplify the complaint process and answer frequently asked questions.</p> <p>To be responsive to these time-sensitive complaints, they were given priority through an accelerated modified internal process.</p>	<p>Adjudication and mediation of complaints filed under the <i>Public Service Employment Act</i></p>	<ul style="list-style-type: none"> • Timely issuance of decisions • Efficient and simplified processes

Risk Analysis (continued)

RISK	RISK RESPONSE STRATEGY	LINK TO PROGRAM ALIGNMENT ARCHITECTURE	LINK TO ORGANIZATIONAL PRIORITIES
Case Management	<p>This risk has been discussed in the 2012-13 RPP.</p> <p>Implementing the new case management is part of the Tribunal's commitments to:</p> <ul style="list-style-type: none"> • make better use of technology • provide more efficient and effective case management • decrease environmental impact and reduce cost by enabling a paperless office, and • address a growing need for reporting, recordkeeping and information management. <p>The off-the-shelf product has proven flexible and meets 90% of the Tribunal needs in its current form. Major configuration and initial training for the Tribunal's "super-users" was completed by fiscal year end.</p> <p>Timelines for testing, training, data migration and final implementation were finalized. The launch of the new system is planned for fall 2013.</p>	Adjudication and mediation of complaints filed under the <i>Public Service Employment Act</i>	Efficient and simplified processes

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RISK	RISK RESPONSE STRATEGY	LINK TO PROGRAM ALIGNMENT ARCHITECTURE	LINK TO ORGANIZATIONAL PRIORITIES
Human Resources	<p>The Tribunal faced new challenges due to changes in the government's workforce.</p> <p>The Tribunal provided ongoing, appropriate and timely communications and learning opportunities, to ensure that employees knew their contributions make a difference.</p> <p>The Tribunal emphasized the impact of change and promoted work/ life balance.</p>	Internal Service	A workplace where people are valued and know the importance of their contribution
Key Reports/ Decisions	<p>The Tribunal continues to improve its operations and services, in keeping with the recommendations of the December 2011 Report on the Review of the <i>Public Service Modernization Act 2003</i>.</p> <p>On November 23, 2012, the Supreme Court of Canada issued its first judgment regarding a Public Service Staffing Tribunal decision – Canada (Attorney General) v. Kane, 2012 SCC 64 – affirming the Tribunal's decision.</p>	Adjudication and mediation of complaints filed under the <i>Public Service Employment Act</i>	Timely issuance of decisions

Summary of Performance

Financial Resources – Total Departmental (\$ thousands)

TOTAL BUDGETARY EXPENDITURES (Main Estimates) 2012–13	PLANNED SPENDING 2012–13	TOTAL AUTHORITIES (available for use) 2012–13	ACTUAL SPENDING (authorities used) 2012–13	DIFFERENCE (Planned vs. Actual Spending)
5,427	5,427	5,825	5,109	318

Human Resources (Full-Time Equivalents — FTEs)

PLANNED 2012–13	ACTUAL 2012–13	DIFFERENCE 2012–13
38	36	2

Performance Summary Table for Strategic Outcome and Program (\$ thousands)

Strategic Outcome : *Fair and impartial resolution of disputes related to internal appointments and lay-offs in the Government of Canada*

PROGRAM	TOTAL BUDGETARY EXPENDITURES (Main Estimates 2012-13)	PLANNED SPENDING			TOTAL AUTHORITIES (available for use) 2012-13	ACTUAL SPENDING (authorities used)			ALIGNMENT TO GOVERNMENT OF CANADA OUTCOMES
		2012-13	2013-14	2014-15		2012-13	2011-12	2010-11	
Adjudication Services	3,838	3,838	3,974	3,984	4,026	3,747	3,644	3,477	Government Affairs: Well managed and efficient Government operations
STRATEGIC OUTCOME SUB-TOTAL	3,838	3,838	3,974	3,984	4,026	3,747	3,644	3,477	

Performance Summary Table for Internal Services (\$ thousands)

PROGRAM ACTIVITY	TOTAL BUDGETARY EXPENDI- TURES (Main Estimates 2012-13)	PLANNED SPENDING			TOTAL AUTHORITIES (available for use) 2012-13	ACTUAL SPENDING (authorities used)		
		2012 -13	2013 -14	2014 -15		2012 -13	2011 -12	2010 -11
Internal Services	1,589	1,589	1,469	1,472	1,799	1,362	1,292	1,270
Sub-Total	1,589	1,589	1,469	1,472	1,799	1,362	1,292	1,270

Total Performance Summary Table (\$ thousands)

PROGRAM ACTIVITY	TOTAL BUDGETARY EXPENDI- TURES (Main Estimates 2012-13)	PLANNED SPENDING			TOTAL AUTHORITIES (available for use) 2012-13	ACTUAL SPENDING (authorities used)		
		2012 -13	2013 -14	2014 -15		2012 -13	2011 -12	2010 -11
Strategic Outcome and Internal Services	5,427	5,427	5,443	5,456	5,825	5,109	4,936	4,747
Total	5,427	5,427	5,443	5,456	5,825	5,109	4,936	4,747

Expenditure Profile

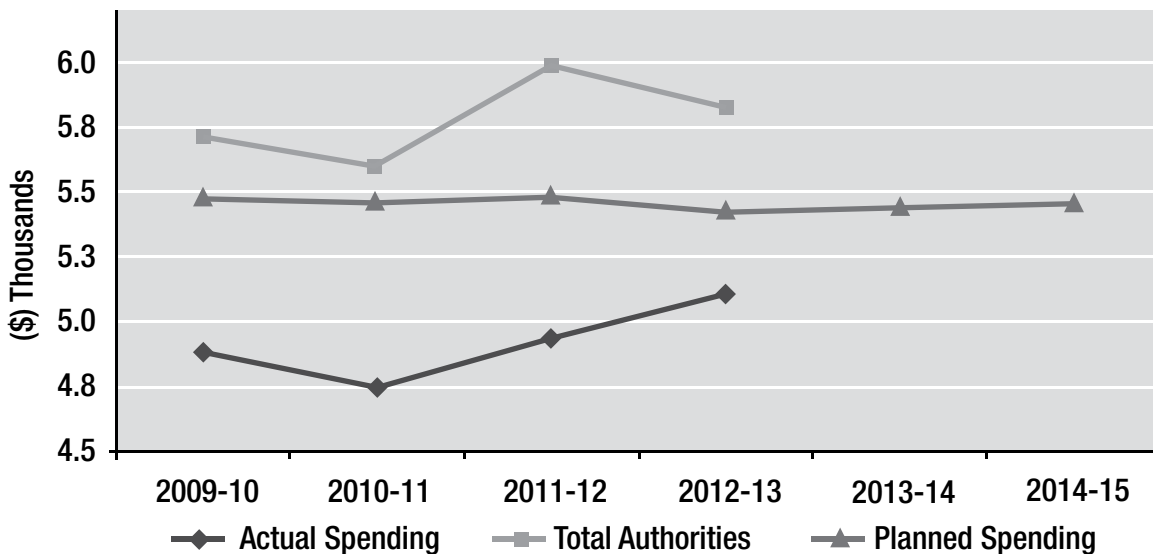
The Tribunal was originally established with a planned expenditures budget of \$5 million on the assumption that approximately 400 complaints would be submitted per year. This number of complaints was reached in the Tribunal's second year of operations (2006-07). In 2012-13 the Tribunal's complaint caseload (604 complaints) returned closer to the average levels of recent years (although 2011-12 had a significantly higher than average number of complaints).

The Tribunal's actual spending was \$5.1 million in 2012-13, an increase compared to the previous year mainly due to investments in its new case management system. Once operationalized, the system will improve and enhance information management capabilities and functionality.

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The chart below demonstrates the Tribunal's spending trend.

Departmental Spending Trend



The Tribunal's planned spending has been fairly stable over the years as shown in the graph above. The increase in actual spending between 2010-11 and 2012-13 was mainly due to payment for severance resulting from the new severance pay provisions in some collective agreements and due to investments made in the development of the new case management system.

The Tribunal contributes to the Greening Government Operations targets through the Internal Services program activity. (For additional details on the Tribunal's Greening Government Operations activities see Section III – List of Supplementary Information Tables).

Estimates by Vote

For information on the Public Service Staffing Tribunal's organizational Votes and/or statutory expenditures, please see the [*Public Accounts of Canada 2013 \(Volume II\)*](#)ⁱ. An electronic version of the Public Accounts 2013 is available on the Public Works and Government Services Canada website.

Section II: Analysis of Program by Strategic Outcome

STRATEGIC OUTCOME: <i>Fair and impartial resolution of disputes related to internal appointments and lay-offs in the Government of Canada</i>		
PERFORMANCE INDICATOR	TARGET	ACTUAL RESULT
Percentage of complaints referred to judicial review on the grounds that the Tribunal failed to observe a principle of natural justice, procedural fairness or other procedure.	3%	<p>Approximately 3% of all final decisions were referred to judicial review on the grounds that the Tribunal failed to observe a principle of natural justice, procedural fairness or other procedure.</p> <p>Of the 189 final decisions issued (38 Reasons for Decision and 151 Letter Decisions), six judicial review applications were made to the Federal Court on the grounds mentioned above.</p>

Program: Adjudication and Mediation Services

Financial Resources (\$ thousands)

TOTAL BUDGETARY EXPENDITURES (Main Estimates) 2012-13	PLANNED SPENDING 2012-13	TOTAL AUTHORITIES (available for use) 2012-13	ACTUAL SPENDING (authorities used) 2012-13	DIFFERENCE 2012-13
3,838	3,838	4,026	3,747	91

Human Resources (FTEs)

PLANNED 2012-13	ACTUAL 2012-13	DIFFERENCE 2012-13
28	27	1

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Performance Results

EXPECTED RESULTS	PERFORMANCE INDICATORS	TARGETS	ACTUAL RESULTS
Tribunal decisions are timely, sound and well-reasoned.	Percentage of decisions where reasons are issued within four months of hearing.	80%	72%
	Percentage of Tribunal decisions upheld on judicial review.	95%	100%
Optimal utilization of Tribunal's dispute resolution services by parties.	Percentage of mediations resulting in withdrawal of complaint.	70%	77%

Program: Internal Services

Financial Resources (\$ thousands)

PLANNED SPENDING 2012-13	ACTUAL SPENDING 2012-13	DIFFERENCE 2012-13
1,589	1,362	227

Human Resources (FTEs)

PLANNED 2012-13	ACTUAL 2012-13	DIFFERENCE 2012-13
10	9	1

Performance Analysis and Lessons Learned

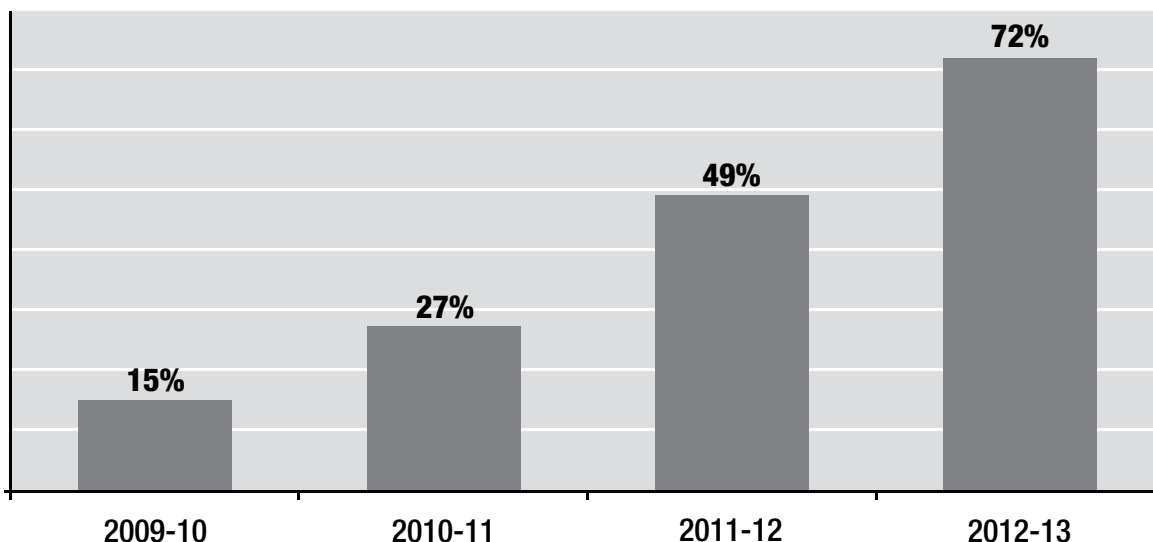
Performance Analysis

Decisions where reasons are issued within four months of hearing

The Tribunal's ultimate goal with respect to the complaints it receives is to render high quality decisions within a reasonable timeframe.

As the Tribunal's jurisprudence becomes more established, the turn-around time for issuing decisions, following a hearing, has improved significantly and continues to improve consistently from year to year.

Reasons for decision rendered within four months of the hearing



Tribunal decisions upheld on judicial review

One measure of the quality of decisions can be the number of applications for judicial review filed with the Federal Court (FC) and, of those, the number where the application is granted.

There have been no significant changes in the number of cases going to judicial review. A total of six decisions were referred to judicial review out of the 189 final decisions issued by the Tribunal.

The FC dismissed four applications and two were discontinued. See the chart below for an overall view of judicial review applications.

	2007-12	2012-13	TOTAL
Number of judicial review applications filed	26	6	32
Applications dismissed or moot	5	4	9
Applications granted	7	0	7
Applications discontinued	8	2	10
Applications pending	6	6	6
Number of final decisions rendered by Tribunal	776	189	965
Percentage of decisions upheld	99.1%	100%	99.3%

Mediations resulting in withdrawal of complaint

To improve the Tribunal's service delivery to clients and create savings and efficiencies, mediation sessions were increasingly conducted by telephone and videoconferencing. Information was made available on the Tribunal's website encouraging the use of new technologies for conducting mediation sessions.

Telephone and videoconference mediation continued to be used and the Tribunal increased the practice of conducting the pre-mediation by telephone and mediation in person.

Based on feedback on both the mediation process and the work of the mediator, the mediation participant satisfaction rate is 85%. The same satisfaction rate is reported for mediation done by telephone and videoconference.

BREAKDOWN OF TOTAL COMPLAINTS REFERRED TO MEDIATION

Total referred to mediation (294 carried over from previous years)	351
Total mediation sessions conducted	168
Total complaints resolved by mediation	129
Mediation success rate	77%

Lessons Learned

Mediation by Telephone and Videoconference

The Tribunal provided parties with the choice of mediation by telephone, videoconference or in person. As a result, mediation (pre-mediation by telephone and mediation in person) by telephone or videoconference increased to 48% compared to 25% the previous year.

The Tribunal also conducted mediation by videoconference but this required the use of facilities provided by the parties to the complaint, and therefore it was more expedient to book a teleconference than a videoconference.

For mediation by telephone, the settlement rate and participant's satisfaction rate remains the same as in the previous year. However, a higher settlement rate for lay-off complaints mediated in-person was noted. As well, the settlement rate for lay-off complaints (71%) was lower than the rate for staffing complaints (80%).

In light of this, while mediation by telephone and videoconference is efficient, the Tribunal needs to be flexible with respect to lay-off complaints in particular, and to provide more mediation services in person for lay-off complaints.

Expedited Hearings

The expedited hearings pilot project was launched in April 2012 as part of the Tribunal's commitment to more efficient and simpler ways of resolving complaints. The pilot project seeks to shorten the time required for hearings and written decisions by providing more expeditious adjudication of less complex cases.

The first expedited hearing was held in the summer of 2012 and this new process was subsequently fine-tuned to make it more flexible. The Tribunal later identified potential cases and sent out notices to parties about the expedited process. At the pre-hearing conference, the member reviews, with the parties, the complaint and discusses the witnesses they intend to call. Based on these discussions, the Tribunal determines whether an expedited hearing is appropriate. Deadlines are set for the exchange of documents, jurisprudence and statements of fact, and any terms specific to the case are established.

Three expedited hearings were held in this first phase of the pilot project. Each had witnesses and lasted one day. The parties received the Tribunal's decision less than 30 days after the hearing date. Given the initial success of the project, it was decided to extend it into the next fiscal year with more cases contemplated for expedited hearings.

It is believed that this new process will prove to be an effective way to improve services. Once there is a sufficient body of jurisprudence regarding lay-off complaints, those cases will also be considered for an expedited hearing. In the future, some cases where there are less complex allegations of discrimination may also be dealt with through an expedited hearing.

Settlement Conferences

Since 2010, the Tribunal has conducted settlement conferences. Like mediation, it is a confidential process with the objective of coming to a final resolution with a withdrawal of the complaint. Both have a high settlement rate. However, a settlement conference differs as it is a mandatory process controlled by the Tribunal. It is a rights-based evaluative process chaired by a Tribunal member. It allows the parties to discuss, in caucus, the strengths and weaknesses of their case in order to reach a settlement that is satisfactory to them.

In 2012-13, the Tribunal scheduled a total of 24 settlement conferences (11 in person and 13 by telephone). Several complaints were withdrawn prior to the scheduled date and a few were also cancelled. Thirteen settlement conferences were held resulting in nine complaints being resolved in this fiscal year or in the months following. Only four complaints were not resolved and proceeded to a hearing.

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Internal Services

The Tribunal is committed to the safety and wellness of their employees. The Tribunal has an occupational health and safety program as well as a business continuity plan. Managing corporate information as well as ensuring efficient records management for Human Resources and Corporate Services in a micro-agency such as the Tribunal is essential for its continued success and efficiency.

The Tribunal continues to regularly monitor its operational, strategic and financial planning so that costing is examined and reviewed. It also continues to ensure stability in the organization by managing priorities and operational demands by maximizing internal capabilities and knowledge.

Section III: Supplementary Information

Financial Statements Highlights

Condensed Statement of Operations and Departmental Net Financial Position

PUBLIC SERVICE STAFFING TRIBUNAL CONDENSED STATEMENT OF OPERATIONS AND DEPARTMENTAL NET FINANCIAL POSITION (Unaudited) FOR THE YEAR ENDED MARCH 31, 2013 (\$ thousands)					
	2012-13 PLANNED RESULTS	2012-13 ACTUAL	2011-12 ACTUAL	\$ CHANGE (2012-13 Planned vs. Actual)	\$ CHANGE (2012-13 Actual vs. 2011-12 Actual)
Total expenses	6,253	5,672	5,267	581	405
Total revenues	—	—	—	—	—
Net cost of operations before government funding and transfers	6,253	5,672	5,267	581	405
Departmental net financial position	(558)	(365)	(512)	(193)	147

In terms of actual expenditures, the net cost of operations (before government funding at year end) increased by \$405 thousand compared to the previous year due to an increase in salaries and employee benefits which was compensated by a reduction in the cost related to travel. The change of \$147 thousand in the net financial position was mainly due to the capitalization of the Tribunal's investments in its case management system.

2012-13 Departmental Performance Report

Condensed Statement of Financial Position

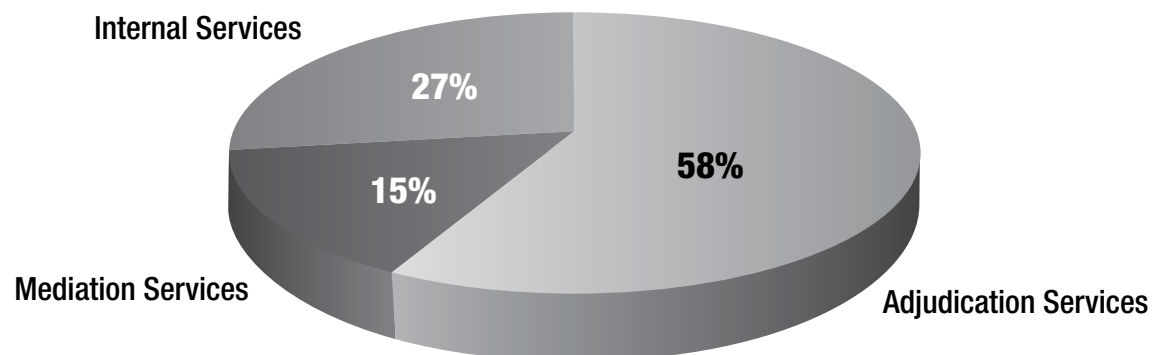
PUBLIC SERVICE STAFFING TRIBUNAL			
CONDENSED STATEMENT OF FINANCIAL POSITION (Unaudited)			
AS AT MARCH 31, 2013			
(\$ thousands)			
	2012-13	2011-12	\$ CHANGE
Total net liabilities	1,037	963	74
Total net financial assets	435	411	24
Departmental net debt	602	553	49
Total non-financial assets	237	41	196
Departmental net financial position	(365)	(512)	147

The change of \$196 thousand in the total non-financial assets at year end and the change of \$147 thousand in the net financial position were mainly due to the capitalization of the Tribunal's investments in its case management system.

Financial Highlights – Charts and Graphs

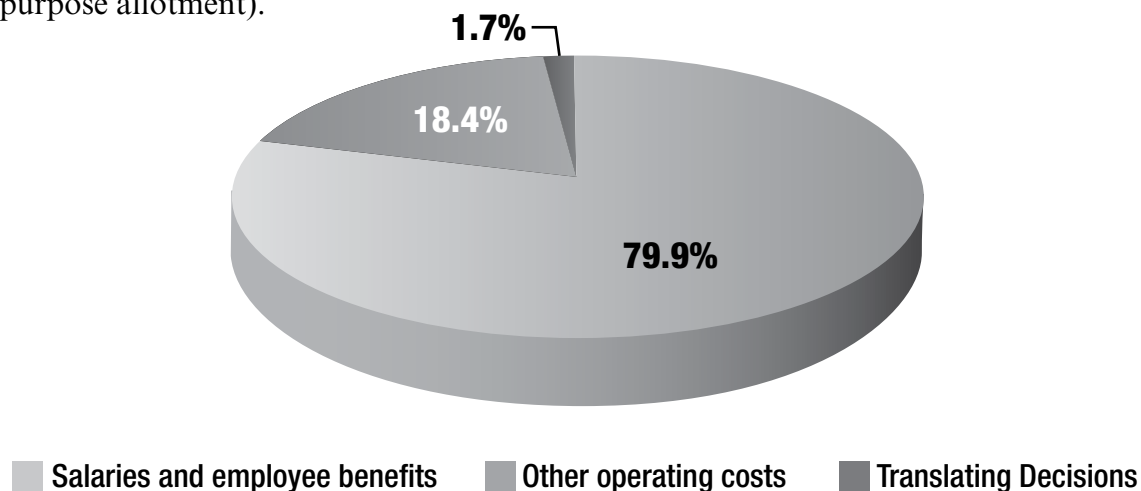
Spending Distribution by Operational Priorities

Based on the Tribunal's financial statements, total expenses were \$5.7 million in 2012-13. The majority of the funds, \$3.2 million or 58%, were spent on the Adjudication Services; while Mediation Services represented \$871 thousand or 15% of total expenses and Internal Services represented \$1.5 million or 27% of total expenses.



Spending by Distribution Type

Total expenses for the Tribunal were \$5.7 million in 2012–13 of which \$4.5 million or 79.9% were spent on salaries and employee benefits while \$1.0 million or 18.4% were spent on other operating costs such as transportation costs, professional services fees, accommodation costs and cost for hearing and mediation facilities. The balance of \$94 thousand or 1.7% of the Tribunal’s costs was for translating its decisions (special purpose allotment).



Financial Statements

The Financial Statements which include the Annex to the Statement of Management Responsibility Including Internal Control over Financial Reporting can be found on the [Public Service Staffing Tribunalⁱⁱ](#) website.

Supplementary Information Tables

- Greening Government Operations

All electronic supplementary information tables listed in the 2012–13 Departmental Performance Report can be found on the [Public Service Staffing Tribunalⁱⁱⁱ](#) website.

Tax Expenditures and Evaluations Report

The tax system can be used to achieve public policy objectives through the application of special measures such as low tax rates, exemptions, deductions, deferrals and credits. The Department of Finance publishes cost estimates and projections for these measures annually in the [Tax Expenditures and Evaluations^{iv}](#) publication. The tax measures presented in the Tax Expenditures and Evaluations publication are the sole responsibility of the Minister of Finance.

Section IV: Other Items of Interest

Organizational Contact Information

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613-949-6551

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info@psst-tdfp.gc.ca

Endnotes

- i <http://www.tpsgc-pwgsc.gc.ca/recgen/cpc-pac/index-eng.html>
- ii <http://psst-tdfp.gc.ca/article.asp?id=3494>
- iii <http://psst-tdfp.gc.ca/article.asp?id=3494>
- iv <http://www.fin.gc.ca/purl/taxexp-eng.asp>