

Audit Report

Canadian Intellectual Property Office's Financial Management Governance

Audit and Evaluation Branch

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1.0 Executive Summary

1.1 Introduction

The Canadian Intellectual Property Office (CIPO), a Special Operating Agency of Industry Canada, administers Canada's system of Intellectual Property (IP) rights comprising patents, trade-marks, copyrights, industrial designs and integrated circuit topographies. CIPO's primary clients include: applicants for IP protection, agents representing applicants, users of IP systems and the Canadian business community. CIPO partners with provincial research councils, universities and other federal government agencies to build awareness of its products and services and increase the effective use of IP by Canadians.

CIPO does not receive annual parliamentary appropriations for its operations. As a Special Operating Agency of Industry Canada, it provides products and services on a fee-for-service basis, and manages revenues and costs within a revolving fund. The revolving fund, established in 1994, is an ongoing funding authority for revenue re-spending that provides a financial management structure similar to that of a private business. It must generate sufficient revenues to meet its expenses.

CIPO must comply with financial management requirements established in legislation and in Treasury Board (TB) and Industry Canada (IC) policies, directives and standards. To ensure compliance with these requirements, CIPO senior management has developed and implemented procedures, such as the planning and reporting procedure, and a governance structure to guide the conduct of its activities. Changes were recently made to the CIPO governance structure, which is made up of ten committees, to improve its alignment with CIPO overall strategic priorities and direction.

In accordance with the Industry Canada 2012-15 Multi-Year Risk-Based Audit Plan, the Audit and Evaluation Branch (AEB) undertook an audit of CIPO financial management governance. The objective of this audit was to determine if the CIPO Financial Management Governance Framework is adequate.

The TB *Policy on Financial Management Governance* defines deputy heads' roles and responsibilities in financial management governance. This policy also defines the roles and responsibilities of departmental senior management reporting directly to deputy heads.

The audit focused on the mechanisms in place at CIPO such as the governance structure enabling compliance with legislative requirements, TB and IC policies, directives and standards. The audit revealed that, with some exceptions, CIPO has an adequate financial management governance framework in place that is operating as expected with no material weaknesses.

1.2 Main Findings and Recommendations

CIPO has reviewed and communicated its internal governance structure. Committee terms of reference are in line with the mission and the pillars set out in its' Business Strategy.

Recommendation 1: CIPO should institute a periodic self-assessment of its internal governance committees to ensure their continued relevance.

The committees' terms of reference include the purpose and roles of each committee. Minor improvements could be made to the descriptions of these roles to make them clearer.

Recommendation 2: CIPO should review the descriptions of committee roles and make the necessary changes to prevent duplication and possible confusion.

The committee terms of reference identify the members who attend meetings, considering the responsibilities and decision-making authority of CIPO personnel.

The governance mechanisms in place enable CIPO to meet the TB and IC financial management requirements examined.

The information given to committee members and senior management is complete, accurate and timely. The members deal with relevant financial management matters.

Committee recommendations and decisions are considered and implemented.

1.3 Audit Opinion

In my opinion, an adequate financial management governance framework is in place at CIPO and is operating as expected with no material weaknesses. Improvements are required to address low risk exposures with regard to the financial management governance process.

1.4 Conformance with Professional Standards

This audit was conducted in accordance with the Internal Auditing Standards for the Government of Canada, as supported by the results of the quality assurance and improvement program.

Susan Hart
Chief Audit Executive, Industry Canada

2.0 About the Audit

2.1 Background

In accordance with the approved Industry Canada 2012-15 Multi-Year Risk-Based Audit Plan, the Audit and Evaluation Branch (AEB) undertook an audit of the Canadian Intellectual Property Office's Financial Management Governance. This governance audit follows the audit published in 2012-13 on the internal control process of the Financial Management Control Framework. The results of the first audit revealed that, with few exceptions, the CIPO Financial Management Control Framework is sound and its internal control procedures operate as expected.

CIPO, a Special Operating Agency of Industry Canada, administers Canada's Intellectual Property systems comprising patents, trade-marks, copyrights, industrial designs and integrated circuit topographies. CIPO's primary clients include: applicants for IP protection, agents representing applicants, users of IP systems and the Canadian business community. CIPO partners with provincial research councils, universities and other federal government agencies to build awareness of its products and services and increase the effective use of IP by Canadians.

CIPO does not receive annual parliamentary appropriations for its operations. As a Special Operating Agency, it provides products and services on a fee-for-service basis, and manages revenues and costs within a revolving fund. The revolving fund, established in 1994, is an ongoing funding authority for revenue re-spending that provides a financial management structure similar to that of a private business. It must generate sufficient revenues to meet its expenses.

The fund has continuing non-lapsing authority from Parliament to make payments out of the Consolidated Revenue Fund for working capital, capital acquisitions and temporary financing of accumulated operating deficits. The fund may retain surpluses for information technology investments.

Mission

In a world context that is both dynamic and evolving, intellectual property systems must align more closely with economic strategies in order to increase growth. In support of this evolution, CIPO recently revised its mission statement to focus its view toward ways to foster the success of businesses, inventiveness and discovery in Canada.

CIPO's mission is to contribute to innovation and Canada's economic success by:

- Providing greater certainty in the marketplace through high-quality and timely IP rights;
- Fostering and supporting invention and creativity through knowledge sharing;
- Raising awareness to encourage innovators to better exploit IP;
- Helping businesses compete globally through international cooperation and the promotion of Canada's IP interests, and
- Administering Canada's IP system and office efficiently and effectively.

Governance

There is no single exhaustive and universally recognized definition of organizational governance. Size, complexity, maturity, environment, stakeholders and geographic location are all factors in determining an organization's structure and governance practices.

The Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing* defines governance as "The combination of processes and structures implemented to inform, direct, manage, and monitor the activities of the organization toward the achievement of its objectives."

Treasury Board (TB)'s *Policy on Financial Management Governance* defines deputy heads' roles and responsibilities in financial management governance. This policy also defines the roles and responsibilities of departmental senior management reporting directly to the deputy head. The senior managers' roles and responsibilities are summed up as the prudent management of the financial resources entrusted to them; compliance with laws and TB policies, directives and standards, in respect of the authorities delegated to them; the good understanding of the departmental financial management framework by staff; appropriate training of staff; be accountable and taking the appropriate actions to remedy performance that does not meet expectations.

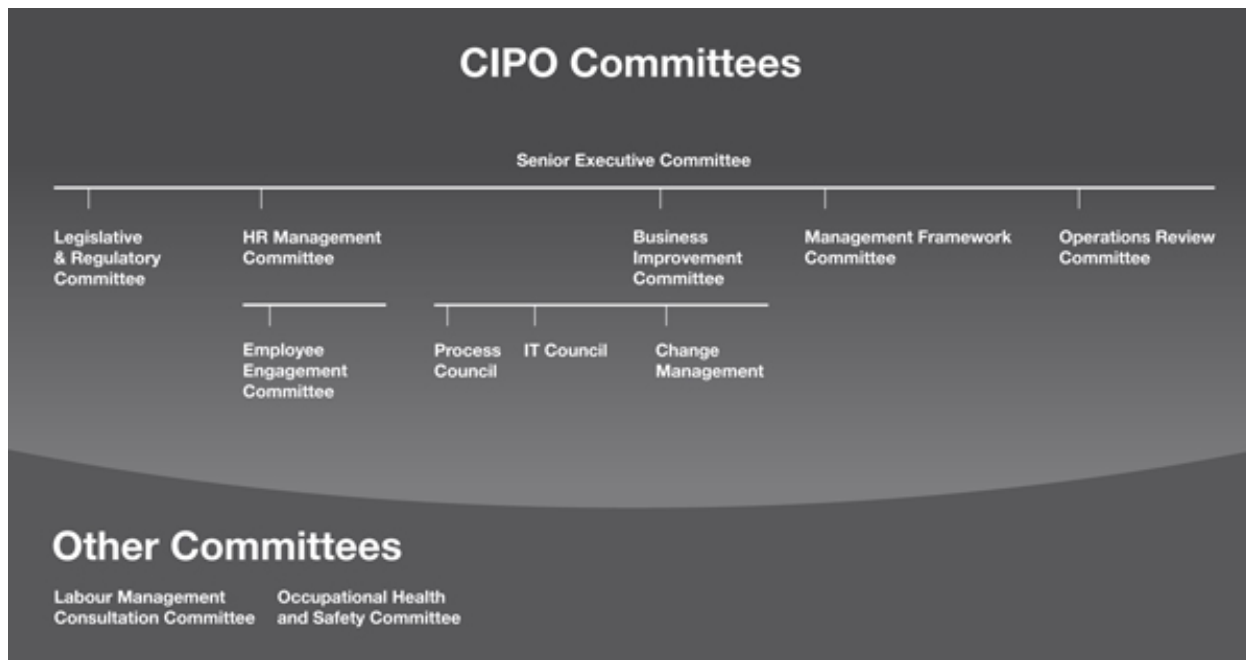
In addition, in performing the duties of their position, these senior managers are also responsible for seeking the advice and support, when necessary, of the chief financial officer (CFO) on the development and maintenance of an effective financial management, risk and control framework over programs and for the inclusion of financial and non-financial information in the financial reporting and disclosure.

Financial Management at CIPO

CIPO must comply with the requirements established in legislation and in TB and IC policies, directives, standards and guidelines pertaining to financial management. Among the main requirements are the *Financial Administration Act*, the *Policy on Financial Management Governance*, and TB's *Policy on Special Revenue Spending Authorities* as well as the Industry Canada Financial Control Framework and the integrated planning and performance process.

To ensure compliance with these requirements, CIPO senior management has developed and implemented mechanisms such as the planning and reporting process and the governance structure, which guide it in the conduct of its activities. Changes were recently made to the CIPO governance structure in order to improve its alignment with CIPO's overall strategic priorities and direction.

The following table illustrates the governance structure as of November 2012. A brief description of the terms of reference of CIPO's committees is presented in Appendix B.



2.2 Objective and Scope

The objective of this audit was to provide reasonable assurance that the financial management governance framework in place is adequate. The key items reviewed during this audit include:

- Committee terms of reference
- The governance mechanisms in place for enabling compliance with laws and with TB and IC policies, directives and standards
- Information provided to the committee members and to senior management
- Items discussed during committee meetings
- Discussions, recommendations and decisions reported in the records of decisions and their consideration and/or implementation

2.3 Audit Approach

This audit was conducted in accordance with the *Internal Auditing Standards for the Government of Canada* and the Treasury Board *Policy on Internal Audit*. The audit procedures followed and the data collected are sufficient and appropriate to attest to the accuracy of the conclusion and the opinion expressed in this report. This opinion is based on a review of the situations identified in time and place, based on pre-established audit criteria agreed upon with management. This opinion applies solely to the entity reviewed and the framework described in this report.

During the planning phase of this audit, a detailed risk assessment was completed to confirm the audit objective and the areas requiring a more in-depth review during the audit execution phase. Based on the identified risks, the AEB developed the audit criteria by focusing on the related TB and IC policies, directives and guidelines. Appendix A to this report lists the audit criteria. The audit covered the September 2011 to November 2012 timeframe inclusively.

The audit execution phase took place at CIPO headquarters. AEB reviewed documents on financial management governance, conducted interviews primarily with CIPO committee members, and gathered and analyzed data from various sources. Subsequently, AEB met with CIPO senior management to validate the accuracy of the findings contained in this report.

3.0 Findings and Recommendations

3.1 Introduction

This section presents detailed findings from the audit on CIPO's Financial Management Governance. The findings are based on evidence and analysis from the initial risk assessment and the detailed audit work.

In addition to the findings below, AEB has communicated verbally findings that were non-systemic and of low risk to management for consideration.

3.2 Committees with Financial Management Roles

CIPO has reviewed and communicated its internal governance structure. Committee terms of reference are in line with CIPO's mission and the pillars set out in CIPO's Business Strategy.

In the fall of 2011, CIPO reviewed its internal governance structure to ensure proper alignment with the overall strategic priorities and direction. This structure is published on the internal website and shows ten committees, seven of which deal with financial management. Of these seven committees, three are new: the Operations Review Committee, which provides executive-level oversight and direction on activities; the Process Council, which strives for process excellence; and the Information Technology (IT) Council, which oversees the alignment of operational requirements and the IT strategy.

To complement its new mission statement, CIPO developed a Business Strategy to strengthen the role of intellectual property in supporting Canada's innovative capacity and output. This strategy includes strategic and enabling pillars that focus on CIPO's substantive business.

The strategic pillars target the following objectives:

- **Clients:** Better understanding of client needs in order to provide better IP-related services.
- **Access to Innovative Knowledge:** Better dissemination of information to encourage innovation.
- **Modern IP framework:** Reducing the administrative burden and harmonizing the IP regulatory and administrative framework.

The enabling pillars make it possible for CIPO to achieve the following objectives:

- **Highly-skilled workforce:** Becoming an organization that is flexible, skilled, knowledge-based and able to attract and keep personnel.
- **Appropriate IT infrastructure:** Getting an appropriate, modern IT system for offering effective services as well as making knowledge accessible.
- **Operational excellence:** Managing activities while also fulfilling client/stakeholder needs.

During the audit, we reviewed the terms of reference for each of the seven committees dealing with matters related to financial management, and interviewed committee members to determine if the terms of reference were aligned with the mission.

We found that the terms of reference are aligned with the CIPO mission and pillars. The committees play roles that allow the oversight of CIPO financial management activities. In addition, directors designated as pillar champions are also members of the Business Improvement Committee. This representation ensures that improvement initiatives undertaken at CIPO are aligned with the pillars and thus with CIPO direction.

Based on the opinions of the members interviewed, the strategic changes now underway, such as the development and implementation of the pillars, increase the need for information exchange, which in turn explains why there is a large number of governance committees. This need should decrease as the strategic and operational changes are completed, at which point some committees could be merged or abolished.

Recommendation 1

CIPO should institute a periodic self-assessment of its internal governance committees to ensure their continued relevance.

The committees' terms of reference include the purpose and roles of each committee. Minor improvements could be made to the descriptions of these roles to make them clearer.

The *Policy on Financial Management Governance* states that to achieve appropriate stewardship of public resources, effective decision-making, and efficient policy and program delivery, an organization needs to establish well defined roles and responsibilities for senior management.

Hence, each committee's terms of reference describes its objective and the roles members are to assume. To meet its strategic and operational needs, CIPO has created certain committees or modified the purpose and roles of existing committees.

The audit team reviewed the descriptions of committee purpose and roles and noted duplication regarding one of the roles of two committees. The Senior Executive Committee and the Business Improvement Committee both have as a role "review and approve key corporate projects and proposals, review progress, make decisions on key issues and approve communications strategies therewith."

In addition, the audit team observed that at least one of the roles that Senior Executive Committee members carry out is not mentioned in the terms of reference: to "review and approve the annual business plan, budget, quarterly financial reviews, annual report and other key operational or strategic initiatives or projects". The approval processes in place at CIPO and Industry Canada require that some of these documents obtain the official approval of the Chief Executive Officer (CEO) of CIPO, even if the content has been reviewed and approved during meetings of the Senior Executive Committee. The Senior Executive Committee terms of reference should include the role of recommending documents for approval by the CEO of CIPO, in addition to its approval role.

Although we found that the descriptions of some committee roles could be clarified, we were able to conclude through interviews that members understand the purpose and roles of the committees they attend. Nevertheless, the existence of duplication and lack of clarity in committee roles could cause confusion.

Recommendation 2

CIPO should review the descriptions of committee roles and make the necessary changes to prevent duplication and potential confusion.

The committee terms of reference identify the members who attend meetings, considering the responsibilities and decision-making authority of CIPO personnel.

According to the Canadian Institute of Chartered Accountants (CICA) guide *20 Questions Directors Should Ask about Governance Committees*, “A key consideration when selecting members of the governance committee is the skills, interests and expertise of each director. Without the right people on the board, even the best structures and processes won’t guarantee the right decisions.”

In addition to stating purpose and roles, the committees’ terms of reference indicate who is to attend meetings by identifying key positions and considering the responsibilities and decision-making authority attached to these positions. For example, the Operations Review Committee members are responsible for overseeing CIPO performance in financial areas. The director of finance and administration, the manager of financial planning and reporting and the manager of strategic planning and performance measurement are identified as committee members. Due to their responsibilities, staff members occupying these positions have the skills, interests and expertise required to oversee performance in the area of financial management.

The terms of reference for the committees with decision-making authority for approving documents, i.e. the Senior Executive Committee, the Business Improvement Committee and the Human Resources Management Committee, designate the CEO of CIPO as their chair. In addition, interviews revealed that members were satisfied with the mix of members for each governance committee. Given that the mix of members in the terms of reference is determined based on the positions the CIPO staff occupies, and considering their levels of authority, the roles are assigned and authorities are delegated to committees with consideration of risk.

3.3 Financial Requirements

The governance mechanisms in place enable CIPO to meet the TB and IC financial management requirements examined.

As indicated in sections 4 and 5 of the *Policy on Financial Management Governance*, an agency’s senior management must manage its activities in compliance with legislation as well as with TB policies, directives and standards. In addition, senior management must establish a sound financial management governance structure that fosters prudent stewardship of public resources in the delivery of the mandate of the organization.

During the audit, we identified the main TB and departmental financial requirements with which CIPO must comply as a Special Operating Agency of Industry Canada. To identify these requirements, we examined, among others, the *Policy on Financial Management Governance* and TB's *Policy on Special Revenue Spending Authorities*, as well as Industry Canada's Financial Control Framework and the Integrated Planning and Reporting process.

We also reviewed some CIPO processes as well as the internal governance structure that staff uses to oversee activities for achieving the objectives. One of these mechanisms is the annual planning and reporting process (including the calendar of events) which indicates the type of reports to be produced as well as their associated timelines. This process allows senior managers to oversee all the reports to be reviewed, approved and submitted to the various authorities in a timely manner. The annual planning and reporting process is aligned with Industry Canada's established Integrated Planning and Reporting process. Both processes are examples of good governance.

Another mechanism is the CIPO quarterly Dashboard which is tabled and discussed at the Operations Review Committee meetings. The Dashboard presents the quarterly performance measurement results of CIPO's activities including inputs and outputs.

As for the internal governance at CIPO, the committees' structure and meetings allow senior managers to discuss financial matters and make related recommendations and decisions.

Based on the review of these mechanisms, we can conclude that senior managers adequately oversee CIPO activities in order to comply with the identified TB and IC policies, directives and standards.

3.4 Information and Decision-Making

The information given to committee members and senior management is complete, accurate and timely. The members deal with relevant financial management matters.

CICA's guide *20 Questions Directors of Not-for-profit Organizations Should Ask about Governance* says committees should receive complete and accurate preparatory documents and records of decisions, and these should be distributed in a timely manner.

Through our review of materials distributed for committee meetings, we determined that members receive the necessary information for performing their roles on the committees. This information is available to members prior to meetings in various forms, i.e. e-mail, shared drive, or IC Wiki. During interviews, members indicated that the information they receive is complete, accurate and timely.

Based on a review of the records of decisions, we found that relevant subjects are discussed in a manner that permits timely processing. For example, CIPO's annually audited financial statements were reviewed at the May 2012 Senior Executive Committee meetings and approved by the CEO the same month. The annual deadline for approval and publication of these financial statements is June 30.

Similarly, the Management Framework Committee discussed the information to be included in the IC 2012-2013 Report on Plans and Priorities at its meeting of November 27, 2012. The CEO then approved this information on December 19, 2012, i.e. prior to the annual December 31 deadline.

Our review of the records of decisions of the seven committees having roles in financial management also enabled us to conclude that members discuss key topics. For example, discussions include the development of strategies and the business plan, development of the IT investment plan, budget allocation, risk management, business sector performance results, and the results of audited financial statements.

Committee recommendations and decisions are considered and implemented.

As previously mentioned, the terms of reference state the roles that each committee must perform. The roles of oversight, review and approval vary depending on the topics dealt with and the membership.

Based on a review of the records of decisions and other documentation, we found that recommendations and decisions are considered and implemented.

As an example of a recommendation, members agreed during the May 25, 2012 Business Improvement Committee meeting that the business plan would be submitted to the CEO on June 1 for approval.

As an example of a decision, the October 11, 2011 Business Improvement Committee meeting adopted the terms of reference of the new Process Council and IT Council.

Our review of documents confirmed that the CEO approved the business plan and the creation of the Process Council and IT Council. In addition, the results of our interviews with members corroborated the fact that recommendations and decisions are considered and implemented.

3.5 Management Response and Action Plan

The findings and recommendations of this audit were presented to CIPO management. Management agreed with the findings included in this report and will take actions to address the recommendations by April 2013.

CIPO will review all committee terms of references during its annual planning process to ensure their continued relevance. CIPO will also adjust the terms of references to avoid any duplication of roles and add the role of recommending documents for approval to the Senior Executive Committee terms of references.

4.0 Overall Conclusion

The audit revealed that, with some exceptions, CIPO has an adequate financial management governance framework in place that is operating as expected with no material weaknesses. Improvements are required to address low risk exposures with regard to the financial management governance process.

Appendix A: Audit Criteria

Criteria	Met / Met with Exceptions / Not Met
1) There are adequate approved terms of reference and assigned roles for each of the committees and they are aligned with the CIPO's mission and strategic pillars.	Met with exceptions
2) Roles are assigned and authorities are delegated to committee members with consideration of risk.	Met
3) Appropriate positions are selected as CIPO committee members.	Met
4) Members understand the term(s) of reference and roles of the committee(s) on which they serve.	Met
5) CIPO governance mechanisms in place meet Treasury Board and Industry Canada financial management requirements.	Met
6) Information provided to members of committees and senior management is complete, accurate and timely.	Met
7) Committee members meet regularly, as stated in their committee terms of reference, and deal with relevant financial management-related matters.	Met
8) Recommendations and decisions made by committees are considered and/or implemented.	Met

Appendix B: Governance Committees Terms of Reference

Senior Management Committee

The Senior Executive Committee is the senior decision making forum which provides oversight to CIPO's administration and sets strategic direction and priorities.

Legislative and Regulatory Committee

Under development.

Human Resources Management Committee

Chaired by the CEO, the role of this committee is to provide executive-level oversight and direction on agency-wide HR plans, strategies, key initiatives, discuss related projects and resolve key issues.

Employee Engagement Committee

The purpose of this committee is to provide employee-level recommendations to the Human Resources Management Committee on how best to engage, attract and retain the most talented employees.

Business Improvement Committee

The Business Improvement Committee is the senior decision making forum that oversees business improvement initiatives to ensure alignment with the strategic direction of the organization..

Process Council

Chaired by the Assistant Commissioner of Patents, the purpose of the Process Council is to develop a strategy and framework to support CIPO's goal of continuously striving for process excellence, and to take a "customer service" perspective that aims to optimize value delivered to the client and the public.

IT Council

The purpose of the IT Council is to provide direction and advice to align CIPO's IT strategic priorities and investments with current and future business needs.

Management Framework Committee

Chaired by the Executive Director, this committee's role is to provide oversight and direction on agency-wide management processes and practices to ensure efficient management and sound stewardship of resources.

Operations Review Committee

Chaired by the CEO, the purpose of the Operations Review Committee is to provide executive-level oversight and direction on agency operations.

Other Committees

Labour Management Consultation Committee

A forum for information sharing, consultation and co-development between management and labour groups.

Occupational Health and Safety Committee

A workplace safety and health committee composed of equal representation from employee groups and management.

External Committees

Joint Liaison Committee - Patents

A joint consultation committee between Patent Branch management and Intellectual Property Institute of Canada (IPIC) patent agents.

Joint Liaison Committee – Industrial Designs

A partnership committee between members of the Industrial Design Office (IDO), Copyright and Industrial Design Branch and members of the IP profession.

Joint Liaison Committee – Trade-marks

A joint consultation committee between Trade-marks Branch management and Intellectual Property Institute of Canada (IPIC) trade-mark agents.