



Justice Canada

Audit of Managing Demand

*Audit report presented to the
Departmental Audit Committee*

Internal Audit Services

*Approved by the Deputy Minister at the
Departmental Audit Committee Meeting on
July 5, 2016*

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1. Executive Summary

Introduction

The Department of Justice Canada (Justice) provides legal services to federal government departments and agencies across Canada. Steady growth in the demand, and corresponding cost, for these services led Justice to undertake a Legal Services Review in 2014 and commit to capping the total cost of Government of Canada legal services at \$499.8M annually.¹ Through the Legal Services Review, Justice, in partnership with its client departments and agencies (partner departments), launched a series of measures to improve productivity, cost effectiveness and business excellence of its operations.

The Managing Demand Initiative (MDI) was one of four measures that support a Legal Services Review commitment to “Redefine the Justice-client Partnership.” Under the MDI, Justice sought to manage the demand for legal services by:

1. Working with partner departments to identify low risk, low priority work that does not require legal advisory support; and
2. Enhancing the use of tools to help screen, triage, redirect, and resolve requests for legal services.

Looking beyond the completion of the Legal Services Review and the MDI in March 2017, the Justice executive management team has signalled that efforts to manage demand must continue to help ensure legal services remain fiscally sustainable in the long term. Justice’s vision for 2020 - Canada’s Legal Team – calls for ongoing efforts to manage demand by “working with clients as partners” through “ongoing discussions ... to define ‘excellence’ and to identify priorities.”

Achieving this vision will require a shift in how Justice does business, as it moves from a traditional client-service model to a partnership with departments and agencies in which all parties work together to contain legal service costs and meet the government’s legal needs.

Strengths

The Department has made good progress in achieving the MDI deliverables:

- formal agreements have been reached with 44 of 45 partner departments to identify low risk, low priority work not requiring legal advisory support;
- an inventory of tools and strategies to manage demand has been established and work is underway to gather and share the tools with departmental legal services units (DLSUs); and
- the planned full-time equivalent (FTE) reductions have been achieved.

DLSU heads demonstrate a strong understanding of, and support for, efforts to manage demand. The process of negotiating the agreements has brought focus to the need to manage demand, and has laid a foundation for ongoing engagement with partner departments in these activities.

¹ \$499.8M cap is effective as of April 1, 2016.

Areas for Improvement

While DLSUs are making progress in implementing processes and controls to support managing demand, areas for improvement were identified. Existing processes and controls vary in form and substance, due in part to the fact that departmental expectations for processes and controls have not been clearly defined and that opportunities to share best practices have not been formalized. Existing processes and controls also vary in completeness and maturity, due in part to the long-standing practices that exist between DLSUs and partner departments, and to the differing levels of partner department interest in containing legal service costs.

Further consultation and clarification will be required to define specific departmental expectations for managing demand beyond the MDI, including establishing control objectives and progress milestones. The sharing of best practices would also support efforts to enhance processes and controls, and help to identify new opportunities to manage demand.

Audit Opinion and Conclusion

In my opinion, Justice has made good progress since the launch of the MDI in 2014-15, and is on track towards achieving the MDI deliverables. Justice has established addenda with partner departments, identified work that will no longer be performed, and achieved the related 25 FTE savings. A listing of tools and strategies to manage demand has been developed, and the MDI team is working to gather and share these tools and strategies with DLSUs.

The MDI has established a strong foundation in enabling Justice to develop adequate and ongoing mechanisms to collaborate with partner departments beyond the completion of the initiative in March 2017. The creation of the Legal Practices Sector has allowed for a new governance body to support Executive Committee in defining, communicating and periodically reassessing continued efforts to sustain progress and support Justice's longer-term approach to managing demand. Further progress will require establishing clear expectations and direction; enhancing collaboration and information sharing among DLSUs and Legal Practices Sector; and conducting periodic reviews of the adequacy of memoranda of understanding and related annexes/addenda in supporting managing demand.

Management Response

Management is in agreement with the audit findings, has accepted the recommendations included in this report, and has developed a management action plan to address them. The management action plan has been integrated in this report.

2. Statement of Conformance

In my professional judgment as Chief Audit Executive, the audit conforms to the *Internal Auditing Standards for the Government of Canada*, as supported by the results of the Quality Assurance and Improvement Program.

Submitted by:

Original signed par

July 5, 2016

Inanc Yazar, CPA CGA, CIA, CRMA
Chief Audit Executive
Department of Justice Canada

Date

3. Acknowledgement

The Chief Audit Executive would like to thank the audit team and those individuals who contributed to this engagement and particularly, employees who provided insights and comments as part of this audit.

4. Background

Authority

Internal Audit Services conducted this audit in accordance with the Departmental Risk-based Audit Plan 2015-16, which was approved by the Deputy Minister on June 25, 2015.

Introduction

The Department of Justice Canada (Justice) provides legal services to federal government departments and agencies across Canada. Steady growth in the demand, and corresponding cost, for these services led Justice to undertake a Legal Services Review in 2014 and commit to capping the total cost of Government of Canada legal services at \$499.8M annually.² Through the Legal Services Review, Justice, in partnership with its client departments and agencies (partner departments), launched a series of measures to improve productivity, cost effectiveness and business excellence of its operations.

Legal Services Review - Managing Demand Initiative

The Legal Services Review identified a number of specific measures to be implemented in two waves over a span of three years, beginning April 1, 2014. These measures sought to achieve savings by both reducing the demand for services and improving the efficiency of service delivery. Measures were divided into the following three commitment areas:

- i. *Redefining the Justice-Client Partnership* - Finding the right balance between supply and demand for legal services;
- ii. *Streamlining the Organization* - Reducing overhead/indirect costs; and
- iii. *Managing Business Performance* - Enhancing productivity and efficiency.

The first commitment area, “Redefining the Justice-Client Partnership,” included one flagship initiative and three additional immediate measures. One such immediate measure, the Managing Demand Initiative (MDI), was identified as a critical element to contain costs. It focused on two key activities (each with their own deliverables):

1. Working with partner departments to identify low risk, low priority work that does not require legal advisory support; and
2. Enhancing the use of tools to help screen, triage, redirect and resolve requests for legal services.

The MDI was expected to result in A-base savings of \$783,000 and net voting authority (NVA) savings of \$2.93 million, resulting in a reduction of 25 full-time equivalents (FTEs) by 2016-17. The initiative was also expected to provide further annual cost avoidance savings of \$2.25 million by 2016-17.

Three co-leads (Assistant Deputy Minister, Central Agencies Portfolio; Deputy Assistant Deputy Minister, Business and Regulatory Law Portfolio; and Regional Director General and Senior General Counsel, Prairie Region) were assigned responsibility for overseeing implementation of

² \$499.8M cap is effective as of April 1, 2016.

the MDI. They were supported by a small MDI team comprised of senior staff within the Central Agencies Portfolio.

Managing Demand Beyond the MDI

To ensure legal services remain fiscally sustainable, Justice must continue its efforts to manage demand beyond the completion of the Legal Services Review and the MDI. Various key governmental and departmental strategy documents, as well as communications from the Deputy Minister, reflect the importance of maintaining a longer-term approach to the management of demand for legal services.

The Clerk of the Privy Council's Blueprint 2020 identified the need for the Government of Canada to take a whole-of-government approach to enhancing service delivery and value for money. For Justice, this whole-of-government approach entails working collaboratively with client departments as partners to design processes that support the delivery of key legal services while identifying services best delivered by other means.

Justice's response to Blueprint 2020 – Canada's Legal Team vision for 2020 – also calls for ongoing efforts to manage the demand for legal services. One of its objectives is "working with clients as partners" through "ongoing discussions ... to define 'excellence' and to identify priorities in order to reduce demand and improve efficiency in the delivery of legal services." The Deputy Minister has also emphasized that "to achieve business excellence, Justice needs to continue developing new processes to help screen, triage, redirect, and resolve requests for legal services."³

Achieving this vision will require a change in how Justice does business, as Justice moves from a traditional client-service model to a partnership with departments in which both parties work together to contain legal service costs and meet government legal needs.

5. Audit Objectives

The objectives of the audit were to determine whether:

- The deliverables of the MDI have been achieved (or are on track to be achieved); and
- Adequate and ongoing mechanisms are in place to sustain progress and support a whole-of-government approach to containing legal service costs by better managing demand for legal services.

6. Audit Scope

The audit focused on Justice's managing demand activities conducted in fiscal years 2014-15 and 2015-16. Specifically, it focused on two lines of inquiry: 1) the MDI deliverables; and 2) how Justice is positioned to continue managing demand beyond the MDI.

The first line of inquiry focused on the following deliverables for the MDI:

³ Deputy Minister speaking notes for Canada's Legal Team town hall presentation, February 2015.

- establishing addenda with partner departments to identify low risk, low priority work not requiring legal advisory support; and
- developing a common inventory of tools to help screen, triage, redirect and resolve requests for legal services.

We also assessed progress in achieving the planned reductions in FTE positions and related A-base savings as part of the MDI, but did not assess whether the MDI's planned savings for NVA and cost avoidance have been achieved. The process for assessing these latter savings is under development by the Department's Business Analytics team.

The audit's second line of inquiry focused on Justice's efforts to sustain and support managing demand in the longer term. This includes ongoing, whole-of-government efforts to contain the cost of legal services by reducing the volume of partner department requests for legal services. Specifically, the audit included activities up to the point where Justice accepts legal work requested by partner departments. It did not, however, include management decisions on assigning work or on efforts to perform the work more efficiently.

Finally, the audit only considered efforts to manage demand within advisory services. Although these concepts apply to the legislative and litigation lines of business, most of Justice's efforts to date have focused on managing demand within advisory services.

7. Audit Approach

We carried out our mandate in accordance with Treasury Board's *Policy on Internal Audit* and the *Internal Auditing Standards for the Government of Canada*. The audit employed various techniques including a risk assessment of the audit entity, stakeholder interviews, as well as reviews and analysis of documentation and information.

In the planning and conduct phases of the audit, we conducted interviews with the MDI co-leads and team members, staff from Justice's Change Management Office, and staff from Management and CFO Sector. We reviewed key governmental and departmental strategy documents associated with the Legal Services Review; departmental documentation such as business analytics reports, information on past and present initiatives; communications on the Department's recent reorganization; and documents in support of the implementation and oversight of the MDI, including reporting to oversight bodies. We analyzed all addenda for 2015-16 signed with partner departments, as well as the 2016-17 addenda that were available at the time of the audit.

We held interviews with select DLSU heads during the planning and conduct phases of the audit. For a judgmental sample of DLSUs, we obtained and reviewed documents evidencing their efforts to manage demand and analyzed their reporting on tools and strategies in place to manage demand.

8. Findings, Recommendations and Management Action Plan

This section provides the findings and recommendations resulting from the audit work carried out. The audit was conducted based on the lines of enquiry and audit criteria identified in the planning phase which are presented in Appendix A.

8.1 Managing Demand Initiative

The audit examined the extent to which the MDI deliverables had been achieved, or were on track to be achieved. Those deliverables included establishing addenda with partner departments to identify low risk, low priority work not requiring legal advisory support and developing a common inventory of tools to help screen, triage, redirect and resolve requests for legal services. Further, we also assessed progress in achieving the planned reductions of 25 FTE positions as part of the MDI.

Finding	Since the launch of the MDI in 2014-15, Justice has made good progress and is on track to achieve the deliverables of the Managing Demand Initiative.
Linkage to	Controls

Addenda to Memoranda of Understanding

Justice establishes multi-year memoranda of understanding (MOU) with its partner departments for the provision of legal services. These MOU outline roles and responsibilities, the types of legal services provided, price, service standards, and an approach to dispute resolution. In 2013-14, five departments and agencies worked with Justice to establish addenda to their MOU, documenting low risk, low priority work not requiring legal advisory support. These addenda were established as part of initial Legal Services Review efforts, and came into effect April 1, 2014. They describe eight common legal services that will no longer be provided by Justice, permitting some exceptions (e.g., where files present high legal risk).

Building on the lessons learned with the first five partner departments, the MDI team was tasked with guiding DLSUs in establishing addendum agreements with all partner departments that would be reviewed and re-signed annually. Formal consultation sessions were held with DLSU heads and with partner departments' senior officials in January 2015 to discuss the objectives of the MDI and the legal services to be discontinued. Subsequently, DLSU heads continued consultations with their respective partner departments.

We found that these efforts were successful, resulting in the signing of addenda for 2015-16 with all but one of the remaining 40 partner departments that were expected to have such agreements in place. All addenda established for 2015-16 included the same eight mandatory clauses that had been included in agreements signed with the initial five partner departments in 2014. An additional seven optional clauses were developed to present further opportunities to manage demand by identifying other legal services that may no longer be provided by Justice. These optional clauses could be added to the addendum based on discussion and negotiation between Justice and its partner

departments. Some or all of these optional clauses were included in 32 of the addenda completed for 2015-16. The eight mandatory and seven optional addendum clauses are presented in Appendix B.

In addition to these mandatory and optional clauses, DLSU heads were encouraged to work with individual partner departments to identify legal services specific to their situations that could be included in their addenda. We found that only two addenda for 2015-16 included such additional services to be discontinued. However, work was underway at the time of the audit to engage partner departments in discussions to review and re-sign addenda for 2016-17, providing an opportunity to identify additional legal services that may be discontinued.

Inventory of Tools and Strategies

We found that adequate steps were taken to develop a common inventory of tools to be used to manage demand for legal services, and that plans are in place to disseminate these tools to DLSUs. Over the course of 2014 and 2015, the MDI team canvassed DLSU representatives in portfolios and staff in regional offices to obtain input into tools and strategies that could be used to reduce demand for legal services. The information was compiled and organized into a “Table of Tools and Strategies,” which was circulated to Executive Committee members for validation in September 2015 and finalized in December 2015. In essence, the Table of Tools and Strategies reflects the mechanisms – or processes and controls – available to DLSUs to manage demand.

While we found that the MDI deliverable of developing an inventory of tools has been achieved, the MDI team is still in the process of gathering the related documents to be shared with DLSUs. We noted there would be continuing challenges in maintaining and disseminating these tools and strategies. Our suggestions to address these challenges have been communicated in a separate letter to management.

FTE Reductions

The Legal Services Review projected a reduction of 81 FTEs from multiple measures across three commitment areas, including a reduction of 25 FTEs corresponding to the MDI. The approach taken by the Management and CFO Sector was to manage FTE reductions through the budgeting process. As such, cuts corresponding to an adjustment in Justice’s reference levels from the Legal Services Review were allocated at the portfolio level. The required FTE reductions for the MDI were identified in July 2015, and A-base budget reductions (\$783,000) were implemented accordingly.

Monitoring Implementation of the MDI

We found that adequate monitoring was in place to track achievement of the MDI deliverables (e.g., signed addenda, inventory of tools and strategies, budget cuts consistent with FTE reductions). Regular status updates on the implementation of the MDI were prepared by the MDI team, reviewed and challenged by Justice’s Change Management Office, and presented to Executive Committee. The MDI team also plans to canvass DLSU heads to assess the effectiveness of the addenda in reducing demand for legal services.

8.2 Managing Demand Beyond the MDI

Justice's commitment to cap annual legal services costs highlights the importance of maintaining a longer-term approach to managing demand. This longer-term approach is also central to Canada's Legal Team vision for 2020. Building upon the MDI, Justice must continue working with partner departments to identify and implement new opportunities to manage demand.

Accordingly, the audit assessed whether adequate and ongoing processes and controls are in place to sustain progress and support a whole-of-government approach to containing legal services costs by better managing demand for legal services.

8.2.1 Governance

The audit examined whether an effective governance structure is in place to sustain and support managing demand beyond the MDI. This included assessing: whether accountability, roles, and responsibilities are defined and understood; whether objectives for managing demand are defined and communicated; and whether sufficient monitoring of the effectiveness of managing demand activities is in place.

Finding

Accountability, roles and responsibilities are defined and understood. However, clear expectations and direction from senior management are required to sustain and support progress in managing demand.

As a new governance body, the Legal Practices Sector has been established to drive consistency, efficiency and innovation. The Sector is well positioned to support Executive Committee in defining, communicating and periodically reassessing continued efforts to sustain progress and support Justice's longer-term approach to managing demand.

Although a formal performance monitoring framework has not yet been developed, Justice is making progress on improving its ability to monitor ongoing managing demand activities.

Linkage to

Governance

DLSU heads demonstrate a strong understanding of the importance of managing demand, and of their role and responsibilities in redefining the Justice-client partnership. They also acknowledge the need to continue efforts to manage demand beyond the MDI as established in Blueprint 2020 and Canada's Legal Team. However, we noted that further consultation and clarification will be required to define specific departmental expectations for managing demand beyond MDI, including control objectives and progress milestones.

While the higher-level strategic objectives for managing demand are clear, further direction from senior management is necessary by taking into account considerations such as:

- varying partner department interest in containing legal services costs;
- the significant culture shift that is required both within Justice and across partner departments to implement processes and controls for managing demand;
- the need to consider the cost and benefit of strengthening processes and controls to manage demand; and
- the need to balance efforts to manage demand with many other, equally important, strategic and operational objectives.

The MDI was successful, in part, because its direction and expectations were clearly defined. Similarly, clear direction and expectations from senior management for managing demand beyond the MDI will need to be well defined. As the MDI co-leads' role in managing demand comes to a close in 2016-17, the Legal Practices Sector (LPS) is well positioned to provide this leadership. Established in April 2016, LPS was created to "drive consistency, efficiency and innovation in our practices," and is responsible for developing "operational policy, directives and standards for the practice of law and delivery of legal services."⁴

Performance Measurement and Monitoring

The audit also considered the performance measurement framework in place to monitor efforts to manage demand beyond the MDI. Although a formal framework has not been developed, and is not immediately required given that the MDI will continue through 2016-17, Justice is making progress on improving its ability to monitor ongoing managing demand activities. We acknowledge that the monitoring of managing demand presents some significant challenges due to limitations with available data. However, clear expectations and milestones must be established before suitable performance measures can be determined.

Actions being taken under several departmental initiatives to improve file management practices should, once implemented, provide better data and improve Justice's ability to measure the impact of managing demand activities. One of these initiatives is a new departmental file management opening and closing protocol (as part of the "One Matter-One File" initiative) to correct inconsistent practices that exist throughout Justice, especially for advisory files. Another initiative seeks to improve accuracy in time reporting by providing a more detailed list of advisory activities. Finally, a working group has been established to develop a new standard approach to determining legal file complexity.

While the improved information resulting from these initiatives may not provide direct measures of the demand for legal services, it will support measurement of proxies, such as time spent on low risk and low complexity files. This information will be useful to LPS and Executive Committee in establishing clear expectations regarding future efforts to manage demand.

⁴ Announcement on Changes to the Department's Organizational Structure, February 2016

Recommendation 1	Management Action Plan
R-1 Legal Practices Sector, with support and direction from Executive Committee, should define, communicate, and periodically reassess departmental expectations and direction for managing demand beyond March 2017.	1) LPS will support EC to identify departmental directions and desired results with respect to managing demand and develop related communications products. 2) LPS will work with other sectors to develop tools to support ADMs and ADAG in delivering on their accountability of managing demand to ensure that legal resources are used where they have the highest value. 3) LPS will support Executive Committee to reassess directions for managing demand as required.
Office of Primary Interest	Legal Practices Sector
Due Date	July 2017

8.2.2 Processes and Controls for DLSUs to Manage Demand

Further to Canada's Legal Team vision for 2020, to achieve business excellence, Justice must continue developing new processes to help screen, triage, redirect, and resolve requests for legal services. As such, the audit considered whether adequate processes and controls were in place within DLSUs to manage demand for legal services. Specifically, we considered processes and controls to:

- collaborate with partner departments to identify and implement opportunities to manage demand;
- understand and periodically revisit partner department priorities; and
- screen requests for legal services.

We also assessed whether mechanisms existed within Justice to identify and share new opportunities and best practices for managing demand across DLSUs.

Finding	DLSUs are making progress in implementing processes and controls to support managing demand. While opportunity for improvement exists, it is not apparent that all DLSUs need to have identical processes and controls in place to effectively manage demand, nor do they need to implement all available processes and controls to be effective in managing demand. Once departmental direction has been set for managing demand beyond 2017 (recommendation 1), moving forward with enhancing existing processes and controls for managing demand will require mechanisms to facilitate discussion between LPS and DLSUs on new opportunities, issues and best practices suitable to DLSU and partner department operational environments.
Linkage to	Controls

Finding	The signing of addenda promoted collaboration between Justice and its partner departments in managing demand. As the MDI comes to a close, periodic reviews of MOU and related annexes/addenda will be required to determine how this process should continue.
Linkage to	Controls

Collaborating with Partner Departments on Opportunities to Manage Demand

Collaborating to identify and implement opportunities to manage demand begins with strategic discussions between Justice and its partner departments. All of the DLSUs we sampled reported having regular and ad hoc meetings with partner department representatives. Some of these meetings included formal presentations on managing demand to senior client management. Given the time period subject to audit (2014-15 and 2015-16), these meetings and presentations focused on the MDI, and, in particular, the mandatory and optional clauses for possible inclusion in the addendum to the MOU.

Most of the DLSU heads we interviewed reported that despite their efforts, identifying and implementing opportunities to manage demand is not a priority for partner departments. Legal services costs represent less than 1% of partner departments' overall budgets, and as such, identifying services that could be discontinued and containing legal costs are of limited benefit to partner departments. However, DLSU heads did report that requiring partner departments to sign the 2015-16 addendum was helpful, in that it provided an opportunity to discuss Justice's obligation to contain legal costs. It also signalled the need for a culture shift in support of Justice's new approach to the provision of legal services. Further, at the time of our review, more than half of the addenda signed for 2016-17 had been expanded to include one or more optional clauses not present in the previous year's agreement, demonstrating further progress in this initiative.

DLSUs will need to continue collaborating with their partner departments to sustain progress made under the MDI. This should include regularly revisiting work that has the potential to be discontinued, as well as the identification and implementation of new opportunities to manage demand. The audit found that the signing of addenda has supported these efforts by providing a

mechanism to promote collaboration between Justice and its partner departments. As MDI comes to a close, consideration should be given to which, if any, managing demand clauses should be embedded directly in the MOU, and which are better suited to a separate annex or addenda to the MOU. Factors influencing these decisions would include how widely specific clauses have been implemented across partner departments, how frequently new and existing clauses are to be negotiated, and the degree of prominence Justice wishes to place on efforts to manage demand. Consistent with its role to promote efficiency and innovation, LPS should lead periodic reviews of the effectiveness of the addendum process, including the format, frequency, and specific clauses to be included in the standard agreements.

Understanding Partner Department Priorities

Understanding partner department priorities relative to the provision of legal services is an important requirement of DLSU management, particularly in an environment where demand for legal services can exceed available resources. As stated in the standard MOU template, Justice's ability to effectively provide legal services and achieve expected results is dependent on partner departments setting priorities amongst competing demands.

Each of the DLSU heads we interviewed demonstrated a strong understanding of their partner department priorities. Their knowledge and understanding of client priorities was gathered through attendance at partner department executive committee meetings, branch meetings, and through regular discussions with senior management. Additionally, one DLSU head had established a formal process with their partner department to identify specific priorities for legal services. This approach to managing demand, which we considered a strong practice, requires that all requests for service be screened against specific, pre-established priorities. Looking beyond the end of the MDI in March 2017, Justice will need formal mechanisms to share and discuss strong practices, such as this one, so that each DLSU head has the information necessary to determine which will be most effective for their operating environment.

Screening Requests for Legal Services

The usefulness of processes and controls for screening requests for legal services was highlighted as part of Process Optimization, a previous departmental initiative, and subsequently reinforced through the MDI. These processes and controls – also referred to as intake controls – include but may not be limited to:

- The review and authorization of legal requests at an appropriate level within the partner department prior to submission to the DLSU (i.e., pre-screening);
- A centralized repository(ies) established by DLSUs to facilitate assessment of the nature and priority of requests received and assignment to DLSU staff;
- A legal services requests form, or other such mechanism, used to define and document legal requests submitted/received; and
- The review and authorization of legal requests at an appropriate level within the DLSU.

We found that the processes and controls for screening client requests across the DLSUs sampled were not yet sufficiently developed to support sustained progress in managing demand. This result was not surprising given that the MDI team is still in the process of gathering and disseminating

tools and strategies that could be used to reduce demand for legal services, including controls for screening client requests. Within the smaller DLSUs sampled, we found that some progress had been made in prescribing and implementing intake controls. This was due, in part, to the lower volume of requests they receive and that fewer individuals within partner departments make requests. In general, efforts were underway within these DLSUs to have requests channelled through a central repository and reviewed by the DLSU head or a team lead. Within the larger DLSUs we sampled, the progress made in prescribing and implementing intake controls was generally restricted to ‘pockets’ within the DLSU. It was apparent that the higher volume of requests they receive and the breadth of legal services they provide are impediments to more broadly implementing screening intake controls.

Regardless of the size of the DLSU, all of the DLSU heads we interviewed advised of challenges in implementing intake controls. They cited long-standing practices in existence between DLSUs and their partner departments; perceptions on the part of partner departments that intake controls will impact response time and efficiency; the varying operating environments that exists within partner departments, impacting the suitability and efficiency of certain screening processes; and the culture shift required to implement new processes and controls. All of these factors support our belief that a single set of prescriptive intake controls would not be effective given the variation that exists among the DLSUs. What is required is for DLSU heads to have a common understanding of departmental expectations for managing demand beyond the MDI in March 2017, and the tools to implement controls appropriate to their individual operating environments to meet partner department needs and Justice’s expectations.

While these challenges must be addressed in developing effective and efficient intake controls, processes and controls for screening client requests will need to be enhanced if DLSUs are to be better positioned to manage demand. For example, employing centralized repositories and having senior representatives review all requests would help ensure consistency in the work accepted, allow for the relative significance of client requests to be reviewed, and provide a greater likelihood that new opportunities to manage demand are identified. Enhancing existing processes and controls for screening requests will require that consideration be given to the relevance, cost, and effectiveness of such processes and controls within the individual DLSU operating environments.

Sharing Opportunities and Best Practices across DLSUs

Identifying and sharing opportunities and best practices for managing demand help establish appropriate processes to screen, triage, redirect, and resolve requests for legal services. We found that some portfolios discuss managing demand practices as part of their periodic DLSU meetings. While there has been discussion regarding establishing a departmental director general-level committee, there are currently no formal mechanisms in place to facilitate discussion and sharing of issues, new opportunities and best practices among DLSU heads across portfolios.

The MDI deliverable of establishing a common inventory of tools and strategies to support managing demand is a good first step in sharing relevant information across DLSUs. However, it does not require that best practices be identified. To share best practices, the tools and strategies successfully implemented in DLSUs must first be identified, their relevance to other DLSUs be assessed, and their cost and effectiveness be considered. Finally, opportunities and best practices must be retained in a location easily accessible to all DLSUs. Justipedia is the central legal

knowledge management repository for the Department of Justice and is the most appropriate repository for these best practices. While connectivity issues exist, they are being addressed.

In summary, DLSUs are making progress in implementing processes and controls to support managing demand. While opportunity for improvement exists, it is not apparent that all DLSUs need to have identical processes and controls in place to effectively manage demand, nor do they need to implement all available processes and controls to be effective in managing demand. In moving forward, Justice must consider the differing needs and operating environments across and within partner departments; the differing levels of overall interest of partner departments to contain legal costs; and the cost and benefit of particular processes and controls to manage demand.

Once departmental direction has been set for managing demand beyond 2017 (recommendation 1), moving forward with enhancing existing processes and controls for managing demand will require that mechanisms be established to facilitate discussion between LPS and DLSUs on new opportunities, issues and best practices suitable to DLSU and partner department operational environments (recommendation 2).

Recommendation 2	Management Action Plan
<p>R-2 Within the framework to be created for the new departmental committee (director general level and/or heads of DLSUs), we recommend that the Legal Practices Sector establish a working group to:</p> <ul style="list-style-type: none"> • Organize periodic teleconference calls or meetings of all DLSU heads to share information, discuss best practices, bring forward issues, and enhance consistency; • Identify best practice processes and controls, and making them available to all DLSUs through Justipedia; • Propose processes, tools and strategies best suited to their operational environments to achieve the direction set by Executive Committee; and • Periodically report on progress to Executive Committee. <p>While the audit's scope was limited to managing demand, this working group would support all emerging issues in support of Canada's Legal Team including managing demand beyond March 2017.</p>	<p>We agree with the recommendation and support the creation of a working group to address managing demand and other emerging issues in support of Canada's Legal Team strategy. This working group will be responsible for determining the appropriate amount of time and effort to devote to managing demand, in-line with the direction set by EC.</p> <p>We share your view that the working group, supported by Legal Practices Sector, will be a new and interesting sounding board for Management. The creation and management of the working group and its mandate will be led by Legal Practices Sector with representatives from DLSUs with a potential target implementation date of April 1, 2017.</p>

Office of Primary Interest	ADM, Business and Regulatory Law Portfolio ADM, Public Safety, Defence and Immigration Portfolio ADM, Tax Law Services Portfolio ADM, Central Agencies Portfolio Legal Practices Sector
Due Date	April 1, 2017

Recommendation 3	Management Action Plan
R-3 Legal Practices Sector, with support from the new working group of DLSU heads (see recommendation 2), should conduct periodic reviews of MOUs and related annexes and addenda. This review should assess their adequacy in supporting managing demand, including: the choice of instrument (MOU, annex, or addendum); the frequency of updating and signing the instrument; and the specific mandatory and optional legal services included in the instrument.	Legal Practices Sector, with support from the working group of DLSU heads, will review and make recommendations to EC with respect to the content of MOUs (including Annexes and Addenda) with client-departments with a view of improving the management of demand for legal services and maximizing the use of legal resources.
Office of Primary Interest	Legal Practices Sector
Due Date	October 2017

9. Audit Opinion

In my opinion, Justice has made good progress since the launch of the MDI in 2014-15, and is on track towards achieving the MDI deliverables. Justice has established addenda with partner departments, identified work that will no longer be performed, and achieved the related 25 FTE savings. A listing of tools and strategies to manage demand has been developed, and the MDI team is working to gather and share the related tools and strategies with DLSUs.

The MDI has established a strong foundation in enabling Justice to develop adequate and ongoing mechanisms to collaborate with partner departments beyond the completion of the initiative in March 2017. The creation of the LPS has allowed for a new governance body to support Executive Committee in defining, communicating and periodically reassessing continued efforts to sustain progress and support Justice's longer-term approach to managing demand. Further progress will require establishing clear expectations and direction; enhancing collaboration and information

sharing among DLSUs and LPS; and conducting periodic reviews of the adequacy of MOU and related annexes/addenda in supporting managing demand.

Appendix A – Audit Criteria

Line of Enquiry 1 – The Managing Demand Initiative (MDI)

Criterion 1.1 – Work not requiring legal advisory support from Justice has been identified and documented in accordance with the Department's Legal Services Review commitments and planned FTE reductions are being implemented.

Criterion 1.2 – A common inventory of tools to manage demand has been developed and disseminated in accordance with the Department's Legal Services Review commitments.

Criterion 1.3 – Adequate monitoring is in place to support the implementation of the MDI and the Department's reporting requirements.

Line of Enquiry 2 –Managing Demand Beyond the MDI

Criterion 2.1 – An effective governance structure is in place to sustain and support managing demand.

Criterion 2.2 – Adequate and ongoing mechanisms are in place to collaborate with partner departments in efforts to manage demand.

Criterion 2.3 – Adequate and ongoing mechanisms are in place within the Department to identify and share new opportunities and best practices in managing demand.

Appendix B – Addendum Clauses

Addendum Mandatory Clauses

1. Review of administrative agreements (MOUs) between federal departments and agencies or with provinces and territories.
2. Review and drafting of transfer payment agreements (e.g., grants and contributions).
3. Review and drafting of internal delegation instruments.
4. Approval of briefing notes on matters which do not raise legal issues.
5. Review and drafting of low legal risk draft ministerial correspondence.
6. Attending parliamentary committees in relation to routine matters, with certain exceptions.
7. LP counsel (in contrast to LC managers) will not:
 - Participate on policy, governance, or operational committees unless the purpose of the committee meeting is to manage/discuss legal issues - in such cases, counsel will participate on the committee on an ad hoc basis only;
 - Review DPRs, RPPs, Integrated Business Plans, etc.;
 - Review Decks for management committees raising corporate issues as opposed to legal issues; and
 - Review business cases.
8. Review packages of documents prepared by the partner department proposed for release under the *Access to Information Act* or *Privacy Act* except:
 - for Cabinet confidences, or,
 - where, in cases involving current or anticipated litigation before a court or tribunal, coordination between Justice and the partner department regarding the review and/or release of documents is appropriate.

Addendum Optional Clauses

1. Review and drafting of routine contracts.
2. Track and report on the activities of parliamentary committees.
3. Respond or coordinate the response to Parliamentary inquiries unless the Parliamentary inquiry raises a legal issue warranting the provision of legal advice.
4. Provision of opinions on interpretation of government/department's policies, guidelines and directives except where the policies, guidelines and directives raise legal issues.
5. Preparation of initial legislative and regulatory drafting instructions; advice and support will continue to be provided by LSUs in relation to legislative and regulatory initiatives.
6. Review and drafting of non-legal documents such as threat and risk assessments.
7. Subject to what has been noted above, matters which fall within the responsibilities of the partner department's Centre of Expertise (COE) will be referred first to the COE. This will include, but is not limited to:
 - Access to information and privacy matters (including Privacy Impact Assessments) will be referred to the partner department's ATIP Office;
 - Contracting and procurement matters will be referred to the partner department's Chief Financial Officer Branch; and
 - Human resources matters will be referred to the partner department's Human Resources directorate.

Legal Services will provide legal advice in these areas only after the COE has reviewed the matter and identified a legal issue that warrants the provision of legal advice.