

[*] An asterisk appears where sensitive information has been removed in accordance with the *Access to Information Act*.

Follow-up Review of the Contribution Program for Participants Appearing before the Oliphant Commission of Inquiry

FINAL REPORT

FEBRUARY 11, 2010

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Executive Summary

The objective of the follow-up review is to provide assurance that the recommendations from the “Management Framework Review – Contribution Programs for Parties and Intervenors to Commissions of Inquiry” (final report dated February 2007) have been effectively implemented for the contribution program for participants appearing before the Oliphant Commission of Inquiry.

The scope of this follow-up review was limited to the 12 recommendations from the 2006 Review except for recommendation number six (development of a generic contribution program), which is currently in the process of being implemented by the Privy Council Office (PCO).

Conclusions

Overall, it was found that the PCO took the necessary steps to implement the recommendations made in the 2006 Management Framework Review. Actions were taken for all 11 recommendations within the scope of this follow-up review. The implemented actions were generally assessed as adequate and effective in addressing the recommendations, with a few exceptions.

In two instances, it was observed that a need to strengthen financial controls was required. We noted that a concern remains with the clarification of categories related to legal fees. As part of this follow-up review, we also observed an area for process improvement in the financial management framework as a result of backdated amendments on two occasions.

Recommendations

Four recommendations are provided to the Assistant Deputy Minister, Corporate Services Branch as a result of observations made from this follow-up review.

Recommendation #1

The activities associated with the signing of the Contribution Agreement between the PCO and recipient should be included in the Memorandum of Understanding (MOU). Additionally, the responsibility for the verification of accounts by the PCO should also be included in the MOU.

Recommendation #2

The timeline of events schedule should be kept up to date where possible, and in particular, in those instances where multiple participants are receiving funding.

Recommendation #3

In Part II, Section 1 of the Contribution Agreement between the PCO and the recipient, it should be specified that the hours for preparation and attendance for a person’s application for standing (if standing is granted) are not to be included in the hours allocated for the preparation of and attendance at hearings. A model claim form clearly containing the division of the three funding categories should be required from the participant’s legal counsel when invoices are submitted.

Recommendation #4

The PCO should include a clause in Part I, Section 3.4 of the Contribution Agreement that requires the recipient to add to the retainer agreement with their legal counsel a clause specifying that legal counsel agrees to notify the Commissioner once 75% of the allotted time has been utilized and to inform the Commissioner, at that time, if additional hours for either preparation or attendance at hearings is anticipated.

Introduction

The Privy Council Office

The Privy Council Office (PCO) is the hub of public service support to the Prime Minister and Cabinet and its decision-making structure.¹ Its mission is to serve Canada and Canadians by providing the best non-partisan advice and support to the Prime Minister and Cabinet. Led by the Clerk of the Privy Council, the PCO facilitates the smooth and effective operations of Cabinet and the Government of Canada.

The PCO's single strategic outcome is to ensure the Government's agenda and decision making are supported and implemented and the institutions of government are supported and maintained. To achieve this, the PCO has four program activities (in addition to Internal Services) in its Program Activity Architecture:

- The Prime Minister and Portfolio Ministers – provide professional, non-partisan policy advice and support to the Prime Minister and portfolio ministers;
- The Cabinet – provide policy advice and secretariat support to Cabinet and Cabinet committees;
- The Public Service – provide overall leadership and direction to the Public Service in support of the Government's agenda; and,
- Commissions of Inquiry – provide commissions of inquiry with administrative and financial support.

This follow-up review supports the PCO in their delivery of one of their core program activities by providing administrative and financial support to Commissions of Inquiry.

Background and Context

2006 Management Framework Review

In 2006, the PCO conducted a review of contribution programs for parties and intervenors to two commissions of inquiry, specifically the Commission of Inquiry into the Sponsorship Program and Advertising Activities and the Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar (the 2006 Review). The primary objective of that 2006 Review was to ensure that the management framework for the contribution programs established by the PCO was appropriate and complied with the Treasury Board *Policy on Transfer Payments* and with the terms and conditions for funding of the two contribution programs as approved by Treasury Board. A secondary objective was to conduct an independent evaluation to identify lessons learned and best practices to improve the efficiency and effectiveness of management of the contribution programs supporting future commissions of inquiry for which the PCO might be responsible.

¹ Privy Council Office. *About PCO*. 2008. www.pco-bcp.gc.ca

The 2006 Review concluded that the management framework for the contribution programs implemented by the PCO was appropriate and complied with the *Policy on Transfer Payments*. However, the review did identify some opportunities for improvement, which were the subject of recommendations.

Management now reports all recommendations from the 2006 Review as being implemented, with exception of the recommendation related to the development of a generic contribution program which is currently under development. The recommendations, original action plan, and current status as reported to the PCO Audit Committee by management in December 2009 are presented as Appendix A.

Policy on Transfer Payments

The criteria used for the 2006 Review were based on a number of items including the 2000 *Policy on Transfer Payments*. In October 2008, the new *Policy on Transfer Payments* took effect.² The updated Policy sets out some new expectations for departments in designing, delivering and managing transfer payment programs, and in some cases these expectations differ from those in the 2000 Policy.

The objective of the new Policy is to ensure that transfer payment programs are managed with integrity, transparency and accountability in a manner that is sensitive to risks; are citizen- and recipient-focused; and are designed and delivered to address government priorities in achieving results for Canadians.

In pursuit of this objective, the Policy focuses on ensuring that:

- Roles, responsibilities and accountabilities for the management of transfer payment programs are clearly defined and understood by all departments;
- Transfer payment programs are designed, delivered and managed in a manner that takes account of risk and clearly demonstrates value for money;
- Administrative requirements on applicants and recipients are proportionate to the level of risks specific to the program, the materiality of funding, and to the risk profile of applicants and recipients;
- There are cost-effective oversight and control systems, at both departmental and government-wide levels;
- Transfer payment programs are accessible, understandable and useable by applicants and recipients;
- Applicants and recipients are engaged in support of innovation, continuous improvement and the establishment of fair, transparent and positive relations with them; and,
- Collaboration exists within and among departments to harmonize transfer payment programs and standardize their administration, when appropriate.

The new Policy is supported by a 2008 *Directive on Transfer Payments*, and a *Guide on Transfer Payments*.

² Treasury Board of Canada Secretariat. *Frequently Asked Questions – New Policy on Transfer Payments*. 2008. www.tbs-sct.gc.ca

The Directive provides more detailed, mandatory requirements on the design, delivery and management of transfer payment programs. The Guide provides explanation, non-mandatory guidance, good practices and advice on the Policy and Directive.

Follow-up Review Objective

The objective of this follow-up review is to provide assurance that the recommendations from the “Management Framework Review – Contribution Programs for Parties and Intervenors to Commissions of Inquiry” (final report dated February 2007) have been effectively implemented for the contribution program for participants appearing before the Oliphant Commission of Inquiry³.

Results of this follow-up review will be used for two purposes:

- [*]
- To support the development of a generic contribution program for future Commissions of Inquiry.

Although it was not a primary objective of this follow-up review, we did ensure that the 2006 recommendations would continue to be relevant to the context of the new *2008 Policy on Transfer Payments*.

Follow-up Review Scope

The scope of this follow-up review was limited to the 12 recommendations from the 2006 Review except for recommendation number six (development of a generic contribution program), which is currently in the process of being implemented by the PCO.

Follow-up Review Criteria

The overall criterion for this follow-up review is that:

Audit and review recommendations should be implemented in a timely fashion.

The 2006 Review was carried out using criteria derived from authorities in place at that time. These expectations were carried forward to this follow-up review, and modified as appropriate to respond to changes in authorities since then.

³ Official title: Commission of Inquiry into Certain Allegations Respecting Business and Financial Dealings Between Karlheinz Schreiber and the Right Honourable Brian Mulroney

Follow-up Review Methodology

This follow-up review was conducted between October and December 2009, in accordance with generally accepted auditing standards and the requirements set out in the TB *Policy on Internal Audit*. The following methodology was applied:

1. Document and File Review

All key documents and files were examined as a part of this follow-up review. The documents included, but were not limited to the following:

- All relevant Treasury Board and Treasury Board Secretariat policy, directives and guides: *Policy on Transfer Payments*, *Directive on Transfer Payments*, *Guide on Transfer Payments*, *Accounting Standard 3.2 – Treasury Board – Transfer Payments (Grants and Contributions)*, and *Financial Administration Act*;
- The final report and all working papers for the 2006 Review; and,
- All documentation for the Oliphant Commission relevant to the contribution program.

2. Compliance Tests

The transfer payment transactions completed for the Oliphant Commission were reviewed to ensure that they comply with the *Policy on Transfer Payments* and all other relevant guidance from Treasury Board Secretariat. Additionally, the transactions were reviewed to determine whether they implemented recommendations from the 2006 Review.

3. Interviews

Meetings were held with key administrative officials of the Oliphant Commission and affected PCO employees. Additionally, in recommendation areas where documentation did not exist or was incomplete, interviews were used to follow up and determine the cause of the gap and whether senior management considered and assumed the risk of the gap.

Individuals interviewed for the follow-up review included:

- Mary Ann Allen, Director, Finance and Administration, Oliphant Commission
- Denise Larocque, Manager, Commissions of Inquiry, Corporate Services Branch, Privy Council Office
- Carlos Arruda, Chief, Financial Policies, Systems and Internal Control, Privy Council Office
- Yan Campagnolo, Privy Council Officer/Counsel, Legal Operations/Counsel, Privy Council Office
- Caroline Boutin, Senior Analyst, Treasury Board of Canada Secretariat

4. External Consultation

To support the second purpose for this follow-up review, concerning development of a generic contribution program for future commissions of inquiry, individuals with expert knowledge on grants and contributions were consulted. These individuals included members of the Treasury Board Secretariat Centre of Expertise on Grants and Contributions.

5. Assessment of Results

All documentation relating to the actions taken by management in response to the 2006 Review recommendations were evaluated to determine their adequacy and effectiveness. If it was determined that a recommendation had not been adequately or effectively implemented, the follow-up review also assessed:

- a) Whether senior management has assumed the risk of not taking corrective action; and/or,
- b) The risk(s) associated with failure to effectively implement the recommendation.

Findings for Each Recommendation

2006 Recommendation #1

**Management Framework Review: Contribution Programs for Parties and
Intervenors to Commissions of Inquiry (Dec 2006)**

2006 Recommendation #1

That a memorandum of understanding be developed that clearly defines all of the various respective administrative responsibilities of the PCO and a commission of inquiry based on all activities associated with the administrative framework.

In reviewing key documents, it was found that this recommendation was substantially met.

The Memorandum of Understanding (MOU) developed for the Oliphant Commission clearly defines the various administrative responsibilities of the PCO and the commission of inquiry.

However, not all activities specified in the management framework are included in the MOU, in particular, activities associated with signing of the Contribution Agreement between the PCO and recipient and the verification of accounts from the PCO.

The activities associated with signing a Contribution Agreement between the PCO and the recipient are considered key activities in the management framework and should be included in the MOU. Additionally, the verification of accounts from the PCO prior to payments is a key control with high risk implications and should be included in the MOU.

2006 Recommendation #2

**Management Framework Review: Contribution Programs for Parties and
Intervenors to Commissions of Inquiry (Dec 2006)**

2006 Recommendation #2

That procedures and guidelines be developed for all activities related to the operational cycle of the management framework.

In reviewing key documents, it was found that this recommendation was met.

The guidelines developed for the Oliphant Commission were thorough and provide sufficient detail on acceptable procedures related to all activities of the operational cycle described in the management framework.

2006 Recommendation #3

Management Framework Review: Contribution Programs for Parties and Intervenors to Commissions of Inquiry (Dec 2006)

2006 Recommendation #3

That the guides and guidelines for commissions of inquiry, incorporating a section on contribution programs providing funding for parties and intervenors to an inquiry be updated and distributed.

In reviewing key documents, it was found that this recommendation was met.

The *Administrative and Financial Guidelines* were updated in June 2009 and distributed to the appropriate PCO, Commissions and TBS officials. These Guidelines include sections discussing the financial management services within the commission of inquiry and within the PCO (p.15) as well as, participant funding (p.21).

The *Guidelines – Contributions for Legal Costs* include sufficient detailed guidance on Contribution Agreements (p.2) and verification and certification of accounts (p.3).

2006 Recommendation #4

Management Framework Review: Contribution Programs for Parties and Intervenors to Commissions of Inquiry (Dec 2006)

2006 Recommendation #4

That a formal planning process, including a list of activities to be completed, and monitoring of that process, be established.

In reviewing key documents and interviewing staff members, it was found that this recommendation was partially met.

A formal planning process took place and a detailed timeline of events was developed as a result. The timeline included target dates, activities to be completed, details/comments, and the name of the individual responsible for the activity.

However, the timeline was not monitored and kept up to date.

The risk of this identified gap was deemed low. It did not significantly impact the performance of the claims verification process.

However, it should be monitored and kept up to date as a tool to monitor progress from all parties.

2006 Recommendation #5

**Management Framework Review: Contribution Programs for Parties and
Intervenors to Commissions of Inquiry (Dec 2006)**

2006 Recommendation #5

That the review of the Commissioner's recommendations for funding be completed before they are communicated publicly to parties and intervenors to a commission of inquiry.

In reviewing key documents and conducting compliance tests, it was found that this recommendation was met.

The Commissioner's recommendations for funding were reviewed before they were communicated publicly to parties and intervenors for the Oliphant Commission.

2006 Recommendation #6

**Management Framework Review: Contribution Programs for Parties and
Intervenors to Commissions of Inquiry (Dec 2006)**

2006 Recommendation #6

That the development of a generic contribution program be considered and Treasury Board approval for it sought. This program would define the general financial terms and conditions by which assistance could be granted to parties and intervenors to any commissions of inquiry for which the PCO might be responsible for managing in the future. As for approval of the funding for financial assistance, it could be included in the initial submission to the Treasury Board covering the overall financial needs of any newly created commission of inquiry.

The PCO is in the process of implementing this recommendation; actions taken were not verified as it was outside the scope of this follow-up review.

2006 Recommendation #7

Management Framework Review: Contribution Programs for Parties and Intervenors to Commissions of Inquiry (Dec 2006)

2006 Recommendation #7

- a) That the obligation for parties and intervenors to submit claims indicating the hours claimed based on the categories of activity of hours worked by counsels as specified in the contribution agreement be included in agreements.
- b) That consideration should also be given to adding an appendix to the agreement containing a model claim form to be used by counsels of the parties and intervenors when preparing the invoices for their representing fees.

In reviewing key documents, interviewing staff members and conducting compliance tests, it was found that this recommendation was partially met.

There are three categories in which legal counsel is able to submit claims:

- Costs related to hours for both preparation and attendance for a person's application for standing (if standing is granted);
- Hours for the preparation of hearings; and,
- Hours for the attendance at hearings.

Both senior and junior counsel hours associated with the above activities must be identified separately.

Part A

The Contribution Agreement clearly states that "the Recipient accepts to add to the retainer agreement with their legal counsel the following clauses... 'legal counsel agrees to clearly *identify activities related to the application for standing* on the first account'" for all payments issued under the Contribution Agreement.

However, the Contribution Agreement does not require the recipient to include a clause in the retainer agreement with legal counsel that would require their legal counsel to specify the activities associated with preparation and attendance of hearing to be presented separately. Although, the aforementioned was not in the Contribution Agreement, the participant's legal counsel in this instance did submit invoices that clearly showed the hours for the two categories separately.

Part II and Part III of the Contribution Agreement does not clearly specify whether the (maximum of) 10 hours associated with the preparation and attendance before the Commission related to application for standing are to be included in the total amount of hours allotted for preparation and attendance of the hearing.

It was interpreted by PCO Finance that preparation and attendance for the application for standing were to be included in the total hours allotted for preparation and attendance at hearings. This should be made clear in the Contribution Agreement.

This identified gap is regarded as being a moderate risk. The lack of clarification in the categories of specified work could lead to misinterpretation of the intended appropriation of funds and subsequently, a miscalculation of payments.

Part B

Consideration was given to include a model claim form in the appendix of the Contribution Agreement but after discussion with PCO personnel from Accounting Operations, it was decided not to include it in the Oliphant Commission Contribution Agreement.

A model claim form was developed for the Internal Inquiry⁴ but due to incompatible software of the legal firm, a “Claim Form for Fees” was used instead. This form was to be completed and submitted with each invoice.

This form was not used for the Oliphant Commission because the fee category “preliminary preparation hearings” was eliminated. The reduction of fee categories simplified the process greatly and, as such, the model claim form was deemed not necessary.

The absence of a model claim form for the Oliphant Commission is viewed as a low risk. However, additional consideration may be warranted to have model claims included in the appendix of agreements in the future as it may mitigate the risk of misinterpretation of the intended appropriation as discussed in 7a.

2006 Recommendation #8

Management Framework Review: Contribution Programs for Parties and Intervenors to Commissions of Inquiry (Dec 2006)

2006 Recommendation #8

That the respective responsibilities of the PCO and a commission of inquiry with respect to verification of claims and due diligence be specified and detailed in a guide or guidelines in order to avoid duplication of work.

In reviewing key documents and interviewing staff members, it was found that this recommendation was substantially met.

The respective responsibilities of the PCO and the Oliphant Commission with respect to verification of claims are clearly specified in the “Account Verification and Certification” form provided in the *Guidelines – Contributions for Legal Costs*.

However, there are several areas where items for review are completed by both the Commission and the PCO resulting in inefficiencies due to duplication of work.

⁴ Official title: The Internal Inquiry into the Actions of Canadian Officials in Relation to Abdullah Almalki, Ahmad Abou-Elmaati and Muayyed Nureddin

This duplication of work for activities relating to account verification and certification is understood and accepted by the PCO. The PCO regards this duplication as necessary because the reputational risk that could result from incorrect payment is high.

2006 Recommendation #9

Management Framework Review: Contribution Programs for Parties and Intervenors to Commissions of Inquiry (Dec 2006)

2006 Recommendation #9

That detailed verification procedures for the administrative officials of a commission of inquiry be developed that are specific to this type of contribution program.

In reviewing key documents, it was found that this recommendation was met.

The *Guidelines – Contributions for Legal Costs* provided detailed verification procedures for the administrative officials of the Oliphant Commission. The guidelines were used by Commission's staff and were viewed as thorough and clear.

2006 Recommendation #10

Management Framework Review: Contribution Programs for Parties and Intervenors to Commissions of Inquiry (Dec 2006)

2006 Recommendation #10

That a standard analytical tool facilitating the verification work of a commission of inquiry, and the due diligence of the PCO, be developed and used to document all claims verification procedures used in accordance with the financial terms and conditions as set out in contribution agreements.

In reviewing key documents, it was found that this recommendation was met.

An "Account Verification and Certification" form was developed and included in the *Guidelines – Contributions for Legal Costs*. The form provides a tool for the Oliphant Commission and the PCO to use during all activities related to claims verification. The form was used for all account verification activities before payment was made.

2006 Recommendation #11

**Management Framework Review: Contribution Programs for Parties and
Intervenors to Commissions of Inquiry (Dec 2006)**

2006 Recommendation #11

That the reasons justifying requests for exemptions to the presentation of a Result based Management and Accountability Framework (RMAF) and/or a Risk based Audit Framework (RBAF) be included in all future Treasury Board submissions seeking approval of the terms and conditions of a similar contribution program.

In reviewing key documents, it was found that this recommendation was met.

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Management Note:

The preparation of an RMAF and RBAF is no longer required for Treasury Board submissions under the new *2008 Policy on Transfer Payments*. However, the accompanying *2008 Directive on Transfer Payments* specifies the requirement for a performance measurement strategy for the Terms and Conditions of Contribution Programs and a description of expected results.

2006 Recommendation #12

**Management Framework Review: Contribution Programs for Parties and
Intervenors to Commissions of Inquiry (Dec 2006)**

2006 Recommendation #12

That all concepts appearing in rulings recommending funding by commissioners be clearly defined and that these definitions be formally documented in the contribution agreements.

In reviewing key documents, it was found that this recommendation was met.

The Contribution Agreement signed by the recipient uses template forms provided by the PCO which provide the defined scope, rates and amounts allowed by legal counsel.

The Contribution Agreement clearly defined the maximum hours allowed for senior counsel and articling students for the preparation and attendance of hearings.

Additional Findings

A fundamental objective of sound financial management for government departments is to ensure that adequate controls are in place to properly manage the expenditure of public funds. This includes, but is not limited to section 12.9 of Treasury Board's *Contracting Policy* which recognizes that contract amendments are often useful and necessary; however, they should be used with care and carried out with due diligence to avoid the following:

- Inadequate initial funding, resulting in amendments to increase contract value;
- Inadequate pre-planning, resulting in amendments to change the design, specifications or quantity involved; and,
- Improper administrative procedures, necessitating amendments to change the specifications and delivery or other requirements in order to protect the contractor or government agency involved.

In the instance that a contract amendment is requested after the contract has expired, PCO's *Policy on Service Contracts* requires that an explanation be provided of why the situation occurred, and where applicable, an outline of corrective measures that will be or have been taken to ensure a similar situation does not reoccur.

Key controls for managing the financial implications of contracting can be found in the *Financial Administration Act* and the appropriate Treasury Board policies. These controls are required to be in place to ensure that an organization does not exceed its parliamentary appropriation.

As part of this follow-up review, the Contribution Agreement, the subsequent amendments and all submitted claims were reviewed. In doing so, it was found that the first amendment was backdated to the day in which the allotted amount of funding in the original Contribution Agreement was exceeded. In this instance, the legal counsel did not provide advance notice to the Commissioner that additional time would be needed until the legal counsel had already exceeded the original allotted time for preparation of hearings. This occurred once again for the second amendment.

It is understood that Commissions operate in a highly dynamic environment where it may be difficult to accurately predict the level of required resources prior to beginning the hearing process. However, the PCO and the Commission need to take steps to ensure that proper processes are in place to mitigate the risk of legal counsel exceeding allotted time from occurring either before it occurs or as soon as it is apparent that it will occur.

If the PCO is able to successfully implement a generic contribution program, this issue of legal counsel exceeding approved hours is an area that has the potential to be of a moderate to high risk. Not being informed of legal counsel exceeding the originally allotted hours inhibits the PCO from properly carrying out their planning process to stay within the amount available in the generic contribution program.

Conclusions

Overall, it was found that the PCO took the necessary steps to implement the recommendations made in the 2006 Review. Actions were taken for all 11 recommendations within the scope of this follow-up review. The implemented actions were generally assessed as adequate and effective in addressing the recommendations, with a few exceptions.

In two instances, it was observed that a need to strengthen financial controls was required. We noted that a concern remains with the clarification of categories related to legal fees. As part of this follow-up review, we also observed an area for process improvement in the financial management framework as a result of backdated amendments on two occasions.

Recommendations have been provided to address these areas below.

Recommendations

Recommendation #1

The activities associated with the signing of the Contribution Agreement between the PCO and recipient should be included in the MOU. Additionally, the responsibility for the verification of accounts by the PCO should also be included in the MOU.

Recommendation #2

The timeline of events schedule should be kept up to date where possible, and in particular, in those instances where multiple participants are receiving funding.

Recommendation #3

In Part II, Section 1 of the Contribution Agreement between the PCO and the recipient, it should be specified that the hours for preparation and attendance for a person's application for standing (if standing is granted) are not to be included in the hours allocated for the preparation of and attendance at hearings. A model claim form clearly containing the division of the three funding categories should be required from the participant's legal counsel when invoices are submitted.

Recommendation #4

The PCO should include a clause in Part I, Section 3.4 of the Contribution Agreement that requires the recipient to add to the retainer agreement with their legal counsel a clause specifying that legal counsel agrees to notify the Commissioner once 75% of the allotted time has been utilized and to inform the Commissioner, at that time, if additional hours for either preparation or attendance at hearings is anticipated.

Response and Management Action Plan

Follow-up Review of the Contribution Program for Participants Appearing before the Oliphant Commission of Inquiry

The Assistant Deputy Minister, Corporate Services Branch has overall accountability for the Action Plan.

Recommendation	Management Response and Actions to be Taken	Responsibility	Target Date
1. The activities associated with the signing of the Contribution Agreement between the PCO and recipient should be included in the MOU. Additionally, the responsibility for the verification of accounts by the PCO should also be included in the MOU.	<ul style="list-style-type: none"> • Management agrees with the recommendation. • The MOU which will be issued for the Commission of Inquiry into the Decline of Sockeye Salmon in the Fraser River (Cohen Commission) as well as future commissions will contain the two additional elements outlined in the recommendation. 	Assistant Deputy Minister, Corporate Services Branch	February 2010
2. The timeline of events schedule should be kept up to date where possible, and in particular, in those instances where multiple participants are receiving funding.	<ul style="list-style-type: none"> • Management agrees with the recommendation. • A timeline of events schedule will be prepared for the Cohen Commission as well as future commissions and, where possible, they will be kept up to date. 	Assistant Deputy Minister, Corporate Services Branch	February 2010
3. In Part II, Section 1 of the Contribution Agreement between the PCO and the recipient, it should be specified that the	<ul style="list-style-type: none"> • Management partially agrees with the recommendation. The three funding categories used in the Oliphant Commission contribution 	Assistant Deputy Minister, Corporate Services Branch	June 2010

Recommendation	Management Response and Actions to be Taken	Responsibility	Target Date
<p>hours for preparation and attendance for a person’s application for standing (if standing is granted) are not to be included in the hours allocated for the preparation of and attendance at hearings. A model claim form clearly containing the division of the three funding categories should be required from the participant’s legal counsel when invoices are submitted.</p>	<p>program may differ in future programs.</p> <ul style="list-style-type: none"> • In Part II of the contribution agreement, each funding category will be shown on a separate line with the corresponding maximum number of hours. The agreement will specify that hours allotted for a distinct activity cannot be used for a different purpose. • Management agrees with including a model claim form clearly containing the division of the funding categories. 		
<p>4. The PCO should include a clause in Part I, Section 3.4 of the Contribution Agreement that requires the recipient to add to the retainer agreement with their legal counsel a clause specifying that legal counsel agrees to notify the Commissioner once 75% of the allotted time has been utilized and to inform the Commissioner, at that time, if additional hours for either preparation or attendance at hearings is anticipated.</p>	<ul style="list-style-type: none"> • Management agrees that implementing this recommendation may reduce the number of instances where amendments to contribution agreements are backdated. • To mitigate the risk of PCO exceeding its parliamentary appropriation, management will consider registering the commitment of funds in accordance with s.32(1) of the FAA when the Commissioner submits his recommendations to the Clerk of the Privy Council for approval rather than after the parties have signed the agreement or any amendments to such. 	<p>Assistant Deputy Minister, Corporate Services Branch</p>	<p>June 2010</p>

Appendix A

Recommendations from the 2006 Management Framework Review and current status of Management Action Plan

Presented by the Assistant Deputy Minister, Corporate Services Branch to the PCO
Audit Committee on December 3, 2009.

#	Recommendation	Planned Corrective Measures	Lead	Status Update
1	That a memorandum of understanding be developed that clearly defines all of the various respective administrative responsibilities of the PCO and a commission of inquiry based on all activities associated with the administrative framework.	A memorandum of understanding will be developed.	Corporate Services Branch (CSB)	Completed. This practice began with the Air India Commission in May 2006.
2	That procedures and guidelines be developed for all activities related to the operational cycle of the management framework.	Procedures and guidelines will be developed.	CSB Legal Operations/ Counsel (LO/C)	Completed. <i>Guidelines for Contributions for Legal Costs</i> were issued in September 2008 for the Schreiber-Mulroney Commission.
3	That the guides and guidelines for commissions of inquiry, incorporating a section on contribution programs providing funding for parties and intervenors to an inquiry be undated and distributed.	The guidelines are being updated and the next edition will include a section on funding. The Treasury Board Secretariat will be consulted as needed.	CSB LO/C	Completed. The Financial and Administrative Guidelines for Commissions of Inquiry now include a brief description on participant funding and refer to separate guidelines on contribution programs.
4	That a formal planning process, including a list of activities to be completed, and monitoring of that process, be established.	This will be carried out for all new commissions.	CSB	Completed. This practice began with Air India Commission in May 2006.

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#	Recommendation	Planned Corrective Measures	Lead	Status Update
5	That the review of the Commissioner's recommendations for funding be completed before they are communicated publicly to parties and intervenors to a commission of inquiry.	Orders establishing all new commissions with a funding component will instruct the Commissioner to make recommendations to the Clerk of the Privy Council.	LO/C CSB	Completed. This practice began with the Air India Commission in May 2006.
6	That the development of a generic contribution program be considered and Treasury Board approval for it sought. This program would define the general financial terms and conditions by which assistance could be granted to parties and intervenors to any of inquiry for which the PCO might be responsible for managing in the future. As for approval of the funding for financial assistance, it could be included in the initial submission to the Treasury Board covering the overall financial needs of any newly created commission of inquiry.	The Treasury Board Secretariat will be consulted and, with their support, a generic contribution program for funding will be developed.	CSB LO/C	June 2010. Further to the creation of the Commission of Inquiry into the Decline of Sockeye Salmon in the Fraser River in November 2009, the deadline for this project has been postponed from December 2009 to June 2010, due to a lack of resources.
7	<p>a. That the obligation for parties and intervenors to submit claims indicating the hours claimed based on the categories of activity of hours worked by counsels as specified in the contribution agreement be included in agreements.</p> <p>b. That consideration should also be given to adding an appendix to the agreement containing a model claim form to be used by counsels of the parties and intervenors when preparing the invoices for their representing fees.</p>	<p>A generic table will be developed and counsels will be notified of the obligation to submit hours based on specific categories.</p> <p>The table will be adapted to meet the requirements of each commission, when necessary.</p>	CSB	<p>a. Completed.</p> <p>b. Completed.</p>

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#	Recommendation	Planned Corrective Measures	Lead	Status Update
8	That the respective responsibilities of the PCO and a commission of inquiry with respect to verification of claims and due diligence be specified and detailed in a guide or guidelines in order to avoid duplication of work.	This will be documented in the next memorandum of understanding and in the procedures and guidelines.	CSB	Completed. An account verification and certification form is included in the <i>Guidelines for Contributions for Legal Costs</i> which were issued in September 2008 for the Schreiber-Mulroney Commission. PCO has determined that certain items require review by both the Commission and PCO.
9	That detailed verification procedures for the administrative officials of a commission of inquiry be developed that are specific to this type of contribution program.	Detailed verification procedures will be developed.	CSB	Completed. An account verification and certification form is included in the guidelines for Contributions for Legal Costs which were issued in September 2008 for the Schreiber-Mulroney Commission.
10	That a standard analytical tool facilitating the verification work of a commission of inquiry, and the due diligence of the PCO, be developed and used to document all claims verification procedures used in accordance with the financial terms and conditions as set out in contribution agreements.	A standard analytical tool will be developed. This tool will be adapted to meet the requirements of each commission, as necessary.	CSB	Completed. Recommendation followed with the implementation of the contribution program for the Air India Commission. The process was further improved by developing an account verification and certification form which is included in the Guidelines for Contributions for Legal Costs issued in September 2008 for the Schreiber-Mulroney Commission.

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#	Recommendation	Planned Corrective Measures	Lead	Status Update
11	That the reasons justifying requests for exemptions to the presentation of a RMAF and/or a RBAF be included in all future Treasury Board submissions seeking approval of the terms and conditions of a similar contribution program.	In the future, PCO, in cooperation with TBS, will ensure that the appropriate supporting documentation is provided.	CSB	Completed.
12	That all concepts appearing in rulings recommending funding by commissioners be clearly defined and that these definitions be formally documented in the contribution agreements.	All clarifications to the Commissioner's recommendations will be obtained before the Clerk of the Privy Council approves them.	CSB	Completed. Recommendation followed with the implementation of the contribution program for the Air India Commission.