

Management Framework Review Contribution Programs for Parties and Intervenors to Commissions of Inquiry

Final Report

February 22, 2007

Summary

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Introduction

In January 2006, the Internal Audit and Evaluation Division (IAED) of the Department of Finance Canada undertook to provide certain internal audit services on an interim basis to the Privy Council Office (PCO). In this context, the IAED managed the mandate of reviewing the management framework of the contribution programs providing funding to parties and intervenors appearing before 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.

This review was conducted in compliance with the Treasury Board submissions seeking approval of the terms and conditions of the contribution programs of the two commissions, which stated that an independent evaluation would be conducted after completion of the inquiries to document lessons learned and best practices. The review mandate was carried out by Consulting and Audit Canada under the guidance of the IAED.

Conclusion

Based on our review, we conclude that the management framework of the contribution programs implemented by the PCO was appropriate and complied with the *Policy on Transfer Payments*. However, we have identified some opportunities for improvement, which are the subject to recommendations.

Context

The Privy Council orders establishing the two commissions of inquiry authorized the Commissioners to recommend funding to parties and intervenors to the inquiry if they believed that these individuals or organizations could not otherwise participate in the proceedings. This funding was granted through contribution programs developed by the PCO with the terms and conditions for funding approved by the Treasury Board. The financial assistance consisted of payments of legal costs incurred by parties and intervenors as recommended by the Commissioners.

In addition to establishing the contribution programs, the PCO signed memoranda of understanding with the commissions of inquiry to define their respective responsibilities. The PCO also signed contribution agreements with the parties and intervenors to the inquiry.

Objectives and Scope

The main objective of the review was to ensure that the management framework for the contribution programs established by the PCO was appropriate and complied with the *Policy on Transfer Payments* and with the terms and conditions for funding of the two contribution programs as approved by Treasury Board. The secondary objective was to conduct an independent evaluation on termination of the inquiries, in compliance with the submissions presented to Treasury Board requesting approval of the terms and conditions of the contribution programs of the two commissions, which would document and 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.

The review covered all processes, operations and controls of the management framework of the contribution programs for the two commissions, except for the selection of applicants and their eligibility for financial assistance, since these recommendations were the prerogative of the Commissioners. The review also covered all contributions paid under both contribution programs, specifically, all costs claimed by the parties and intervenors eligible from the start of the public hearings until December 31, 2005.

Observations and Recommendations

Our observations focus on:

- Weaknesses in the administrative framework;
- Inefficiencies in the claims verification process;
- Minor contravention of the *Policy on Transfer Payments*; and
- Vague terms and conditions for funding.

To improve the activities of future commissions of inquiry for which the PCO might become responsible, we recommend to:

- Develop a memorandum of understanding, procedures and guidelines clearly defining all of the various respective administrative responsibilities of the PCO and a commission of inquiry based on all activities associated with the administrative framework (recommendations 1, 2, 3);
- Establish a formal planning process that includes a schedule of activities to be completed and monitoring of said schedule and foreseeing the review of the commissioner's recommendations for funding before they are communicated publicly to parties and intervenors to an inquiry (recommendations 4, 5);
- Consider the development of a generic contribution program of funding for parties and intervenors to a commission of inquiry (recommendation 6);
- Include in the contribution agreement the obligation for parties and intervenors to submit claims indicating the hours claimed based on the categories of activity of hours worked by counsels (recommendation 7);
- Specify and detailing the respective responsibilities of the PCO and a commission of inquiry regarding verification of claims and due diligence, and development of detailed verification procedures specific to this type of contribution program and of a standard analytical tool facilitating the verification work (recommendations 8, 9, 10);
- Provide reasons justifying requests for exemptions when making any future Treasury Board submission for approval of the terms and conditions of a similar contribution program (recommendations 11); and
- Ensure that all concepts appearing in commissioners' recommendations on funding are clearly defined and that these definitions are formally documented in contribution agreements (recommendations 12).