



# OFFICE OF AUDIT AND EVALUATION

## Audit of Memoranda of Understanding and Service Agreements

Departmental Audit Committee  
May 15, 2018



Agriculture and  
Agri-Food Canada

Agriculture et  
Agroalimentaire Canada

Canada

The AAFC Audit Committee recommended this audit report for approval by the Deputy Minister on May 23, 2018.

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## TABLE OF CONTENTS

<b>ABBREVIATIONS .....</b>	<b>1</b>
<b>EXECUTIVE SUMMARY .....</b>	<b>2</b>
<b>1.0 INTRODUCTION .....</b>	<b>3</b>
1.1 Background .....	3
1.2 Audit Objective .....	4
1.3 Audit Scope .....	4
1.4 Audit Approach .....	4
1.5 Conclusion .....	5
1.6 Statement of Conformance .....	5
<b>2.0 OBSERVATIONS, RECOMMENDATIONS, AND MANAGEMENT RESPONSE .....</b>	<b>6</b>
2.1 Governance .....	6
2.2 Control Processes .....	7
2.2.1 Policies and Guidelines .....	7
2.2.2 Agreement Management .....	8
2.2.3 Information Systems .....	9
<b>ANNEX A: DEFINITIONS .....</b>	<b>11</b>
<b>ANNEX B: AUDIT CRITERIA.....</b>	<b>12</b>

## ABBREVIATIONS

AAFC	Agriculture and Agri-Food Canada
ADM	Assistant Deputy Minister
CMB	Corporate Management Branch
ISB	Information Systems Branch
MoU	Memorandum of Understanding
MISB	Market and Industry Services Branch
OCG	Office of the Comptroller General
OIPC	Office of Intellectual Property and Commercialization
PAB	Public Affairs Branch
PB	Programs Branch
SPB	Strategic Policy Branch
STB	Science and Technology Branch
TB	Treasury Board
TBS	Treasury Board Secretariat

## EXECUTIVE SUMMARY

Departments frequently use collaborations, partnerships, and other agreements with different levels of government, the private sector, non-governmental organizations, foreign governments and entities to deliver public programs and achieve public objectives.

Memoranda of Understanding (MoUs) and Service Agreements are designed to share the risks, costs, and benefits of particular initiatives, and should support overall departmental objectives, and priorities. Agreements are typically formalized in writing, which can enhance governance, accountability, and service quality by clearly defining roles, responsibilities, processes, and performance expectations. Various agreement mechanisms are used in the federal government including Grants and Contributions, MoUs, and Service Agreements. While agreements offer benefits in terms of economies of scale and efficiency, they also create unique risks related to the parties involved and the complexity of their topics, subjects, and substance.

The Audit of MoUs and Service Agreements was included in the 2017-21 Agriculture and Agri-Food Canada (AAFC) Integrated Audit and Evaluation Plan. The objective of the audit was to provide reasonable assurance that an adequate management control framework is in place for managing MoUs and Service Agreements.

The audit concluded that an adequate management control framework is not in place for managing MoUs and Service Agreements at the departmental level.

The audit made recommendations to establish a departmental management control framework for managing MoUs and Service Agreements. These include:

- Establishing a departmental policy, guidelines, and templates to assist in the development and management of MoUs and Service Agreements; and
- Implementing a department-wide repository for MoUs and Service Agreements.

## 1.0 INTRODUCTION

### 1.1 BACKGROUND

**1.1.1** Departments frequently use collaborations, partnerships, and other agreements with different levels of government, the private sector, non-governmental organizations, foreign governments and entities to deliver public programs and achieve public objectives.

**1.1.2** The Prime Minister's Mandate Letter (2015) to the Minister of Agriculture and Agri-Food Canada (AAFC) stated: "We made a commitment to Canadians to pursue our goals with a renewed sense of collaboration. Improved partnerships with provincial, territorial, and municipal governments are essential to deliver the real, positive change that we promised."

**1.1.3** In addition to the Mandate Letter, both the 2017-18 and 2018-19 Departmental Plans include activities that involve partnerships with external parties to fulfill AAFC's priorities. These include:

- Multilateral framework agreement;
- Bilateral agreements; and
- Collaborative agreements with industry partners.

**1.1.4** Memoranda of Understanding (MoUs) and Service Agreements<sup>1</sup> are designed to share the risks, costs, and benefits of particular initiatives, and should support overall departmental objectives and priorities. Agreements are typically formalized in writing, which can enhance governance, accountability, and service quality by clearly defining roles, responsibilities, processes, and performance expectations. Various agreement mechanisms are used in the federal government including Grants and Contributions, MoUs, and Service Agreements. While agreements offer benefits in terms of economies of scale and efficiency, they also create unique risks related to the parties involved and the complexity of their subject matters.

**1.1.5** In 2015, the Office of the Comptroller General (OCG) conducted a horizontal internal audit of shared accountability in interdepartmental service arrangements. The audit assessed whether departments had implemented a control framework for establishing and managing interdepartmental service arrangements for the provision of internal services. The Information Systems Branch (ISB), within AAFC, was included in the OCG's audit as a service provider. A resulting recommendation was made to the Department as follows: "*As departments develop or review their interdepartmental Service Agreements, consideration should be given to incorporating key elements outlined in the Secretariat's guidance, including those related to governance, and performance.*" Accordingly, the Information Systems Branch reviewed and revised templates for the development of Service Agreements in the branch.

**1.1.6** The Audit of MoUs and Service Agreements was included in the 2017-21 AAFC Integrated Audit and Evaluation Plan due to the following:

- AAFC partners with other organizations through varying mechanisms (e.g. agreements and MoUs) to achieve key priorities and objectives. The management of these partnerships across the Department is complex.

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<sup>1</sup> See Annex A for TBS definitions of MoUs and Service Agreements.

- Key risks are whether these agreements are managed consistently to ensure that the Department's priorities and objectives are met.

## 1.2 AUDIT OBJECTIVE

**1.2.1** The objective of the audit was to provide reasonable assurance that an adequate management control framework is in place for managing MoUs and Service Agreements.

## 1.3 AUDIT SCOPE

**1.3.1** The audit examined AAFC's MoUs and Service Agreements in place as at November 30, 2017.

**1.3.2** Based on the results of the preliminary review, risk assessment, and interviews, the following areas were scoped out of this audit:

- Grant and Contribution-related agreements: Specialized area subject to the Treasury Board (TB) *Policy on Transfer Payments* on which the Office of Audit and Evaluation has conducted several audits in recent years;
- Contractual agreements: Specialized area that is subject to the TB *Policy on Contracting*;
- Human resource-related agreements: Specialized area for which related agreements may be subject to the TB *Policy Frameworks for the Management of Compensation and People Management*;
- Agreements managed by Science and Technology Branch's (STB) Office of Intellectual Property and Commercialization (OIPC): These are being assessed by a concurrent internal audit on the management of intellectual property; and
- Agreements managed by the Information Systems Branch: These were addressed in the OCG's *2015 Horizontal Internal Audit of Shared Accountability in Interdepartmental Service Arrangements*.

## 1.4 AUDIT APPROACH

**1.4.1** The audit approach and methodology were risk-based and consistent with the International Standards for the Professional Practice of Internal Auditing, and the TB *Policy on Internal Audit and Directive on Internal Audit*. These standards require that the audit be planned and performed so as to conclude against the objective. The audit was conducted in accordance with an audit program that defined audit criteria and audit tasks to be performed in the assessment of each line of enquiry.

**1.4.2** The audit reviewed a judgmental sample of MoUs and Service Agreements to assess whether guidance, management, and coordination activities were in place. This sample was based on a population<sup>2</sup> of 158 non-intellectual property related agreements in place as at November 30, 2017. A total of 22 agreements were sampled from the various departmental branches, such as Corporate Management Branch (CMB), Market and Industry Service Branch (MISB), Public Affairs Branch (PAB), Programs Branch (PB), Strategic Policy Branch (SPB), and STB.

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<sup>2</sup> Population based on as self-declaration by the departmental branches in response to Internal Audit's information requests on MoUs and Service Agreements during the planning stage of the audit.

Type of Agreement by Branch	CMB	MISB	PAB	PB	SPB	STB	Total
<b>Population</b>							
MoU	13	35	14	16	13	65	156
Service Agreement	1	-	-	1	-	-	2
<b>Total</b>	14	35	14	17	13	65	158
<b>Sample</b>							
MoU	2	4	4	3	4	4	21
Service Agreement	-	-	-	1	-	-	1
<b>Total Sample Size</b>	2	4	4	4	4	4	22

**1.4.3** Evidence was gathered through various methods including interviews, sampling of records, and the review and analysis of documentation.

**1.4.4** In addition, case studies were undertaken to provide contextual details on the governance and control aspects and highlight lessons learned in the development and management of MoUs and Service Agreements within the Department. The case studies provided examples and further details to support the overall findings of the audit.

## **1.5 CONCLUSION**

**1.5.1** The audit concluded that an adequate management control framework is not in place for managing MoUs and Service Agreements at the departmental level.

**1.5.2** The audit made recommendations to establish a departmental management control framework for managing MoUs and Service Agreements. These include:

- Establishing a departmental policy, guidelines, and templates to assist in the development and management of MoUs and Service Agreements; and
- Implementing a department-wide repository for MoUs and Service Agreements.

## **1.6 STATEMENT OF CONFORMANCE**

**1.6.1** In the professional judgment of the Chief Audit Executive, sufficient and appropriate audit procedures have been conducted and evidence gathered to support the accuracy of the conclusion provided and contained in this report. The conclusion is based on a comparison of the conditions, as they existed at the time of the audit, against pre-established audit criteria that were agreed on with management. The conclusion is applicable only to the entity examined.

**1.6.2** This audit was conducted in accordance with the *Mandatory Procedures for Internal Auditing in the Government of Canada* (Appendix A of the Treasury Board [Directive on Internal Audit](#)), as supported by the results of the Quality Assurance and Improvement Program.

## **2.0 OBSERVATIONS, RECOMMENDATIONS, AND MANAGEMENT RESPONSES**

This section presents the key observations based on interviews, evidence obtained, and analysis associated with the audit, and provides recommendations for improvement. Management action plans were provided and include:



- An action plan to address each recommendation;
- A lead responsible for implementation of the action plan; and
- A target date for completion of the implementation of the action plan.

The results of the audit are organized into two themes:

- Governance; and
- Control Processes.

## **2.1 GOVERNANCE**

**2.1.1** The audit expected there to be an oversight function within AAFC which reviewed and discussed MoUs and Service Agreements, as part of its role.

**2.1.2** Through a sample review of MoUs and Service Agreements and interviews at the branch level, the audit determined that a level of holistic oversight was missing to identify opportunities for cross-branch coordination or to avoid duplication of effort between organizational areas.

**2.1.3** This aspect was highlighted in a case study on a MoU between AAFC and a foreign country, which was signed in 2009, and renewed every five years. It included the establishment of a high level joint working group between the two countries; however this working group did not provide oversight or coordination of the agreements or projects conducted under the MoU among the multiple AAFC branches involved. Overall, this lack of coordination could lead to a situation where AAFC branch efforts are diverging and impeding the advancement of departmental priorities.

**2.1.4** The audit also examined the Terms of Reference and decision records of several AAFC senior management committees, including the Operations Committee, Departmental Management Committee, Policy and Program Management Committee, and Results and Delivery Management Committee. There were no references or indication as to a periodic review of upcoming, existing, or expiring MoUs and Service Agreements by these departmental management committees.

**2.1.5** The audit noted that the Procurement Review Board reviews, integrates, challenges, and pre-approves all contractual requirements for goods, services, and construction for amounts of \$100,000 and over, which may include MoUs and Service Agreements. However this committee did not review agreements of smaller amounts, agreements that involved receipt of payments by AAFC, or ones with no financial implications.

**2.1.6** Discussions at the senior management level are underway in the Department to develop a tracking report for future MoUs and Service Agreements.

**2.1.7** Without a department-wide oversight function for MoUs and Service Agreements, there may be a lack of awareness and/or coordination of these types of agreements among branches and by AAFC senior management, which may result in inefficient use of resources and/or the inability to achieve the agreement objectives.

**2.1.8** Departmental oversight of MoUs and Service Agreements should be defined as part of the departmental policy recommended in the next section.

## 2.2 CONTROL PROCESSES

### 2.2.1 Policies and Guidelines

2.2.1.1 The audit expected that employees have access to sufficient tools, such as work methodologies, procedures, and templates, to support the discharge of their responsibilities with respect to MoUs and Service Agreements.

2.2.1.2 Treasury Board Secretariat (TBS) provides some direction for the development and management of Service Agreements within the *Guideline on Service Agreements: Essential Elements*. This is considered a guideline and is not necessarily mandated as a TB Policy or Directive. Through interviews, the audit found that there was a lack of awareness of this guideline by those who managed the MoUs and Service Agreements.

2.2.1.3 Through document review, interviews, and the sample of MoUs and Service Agreements assessed, the audit determined that with the exception of STB's OIPC, the Department does not provide a policy, guidance, or tools to support the development and management of MoUs and Service Agreements.

2.2.1.4 STB's OIPC provides templates, guidance, and drafting service to the Branch on intellectual property-related agreements. During the course of the engagement, the audit was informed that STB is in process of integrating its non-intellectual property related agreements to OIPC. SPB had a team which provided support on the MoU development process.

2.2.1.5 The audit found that other branches used other practices, such as relying on employees' knowledge, recent experience, and using past agreements as a base in developing and negotiating the next iteration of the agreement (when being renewed).

2.2.1.6 In the absence of policies, guidance, and templates for the development, management, and monitoring of MoUs and Service Agreements, there is a risk of inconsistencies which could lead to legal and financial risks for the Department.

#### Recommendation 1

The ADM, Strategic Policy Branch should lead a department-wide initiative in establishing a policy, guidelines, and templates to assist in the development and management of AAFC MoUs and Service Agreements.

#### Management Response and Action Plan

Agreed. The ADM, Strategic Policy Branch in collaboration with other branches will develop an AAFC policy, guidance, and related templates to provide clarification on the process for MoUs and Service Agreements development and management.

These will be posted and communicated on AAFC's internal network.

**Lead Responsible:**

Director General, Research and Analysis Directorate, Strategic Policy Branch with the support from other departmental branches.

**Target Date for Completion:**

December 2018

## 2.2.2 Agreement Management

2.2.2.1 The audit expected that MoUs and Service Agreements would contain a base set of key or mandatory elements, such as appropriate delegated signing authority, an expiration or termination clause, and non-legally binding clause where applicable.

2.2.2.2 The audit noted that the sampled agreements included certain key elements outlined in the TBS *Guideline on Service Agreements* or considered good practices, such as appropriate signing authority and an expiration or termination clause:

- All agreements sampled were signed by the appropriate signing authorities.
- 20 of 22 agreements (91%) reviewed included an expiration or termination clause for the agreement.

2.2.2.3 A case study conducted on a MoU that AAFC has with another government department illustrates these good practices. The MoU is associated with a Joint Agriculture and Agri-Food Statistical Program, which provides a five-year framework for the two departments to cooperate in the collection, transfer, security, and analysis of agriculture and agri-food statistical data. The MoU has been renewed four times over the past 20 years and includes a fixed termination period every five years to ensure regular review and updating. The fixed review/renewal requirement enabled the MoU to encompass the current needs from other branches and be responsive to evolving programming requirements.

2.2.2.4 Based on the sample review and interviews, the audit noted opportunities to strengthen agreements by improving elements related to timing of signatures, non-legally binding clauses, and lessons learned. For instance:

- In five of 22 (23%) agreements reviewed, the agreement was signed one to nine months after the effective date.
- Nine of 22 (41%) agreements sampled included a non-legally binding clause; all of which had different wording.
- There were no formal lessons learned captured for any of the 22 agreements.

2.2.2.5 Some of the opportunities to strengthen agreements were illustrated in a case study on an MOU between AAFC and a private sector company, which was signed in 2001, for the sharing of equipment. A non-legally binding clause was included; however, the MoU did not include a termination and/or renewal date.

2.2.2.6 Lessons learned from the case studies conducted as part of the audit included the following:

- The importance to have good on-going communication with all parties.
- The inclusion of a termination date or review clause in agreements to ensure updating on a regular basis.
- The establishment of monitoring and reporting based on defined deliverables, rather than on activities, in order to reduce the number of amendments to the agreements and time extensions required.

2.2.2.7 The audit findings associated with this section, which relate to the appropriate timing and delegation of signatures, standardized non-legally binding clause, and a termination and/or renewal clause would be addressed as part of Recommendation #1 with the establishment of policy, guidelines and templates.

### 2.2.3 Information Systems

2.2.3.1 The audit expected that a department-wide repository would be in place for the tracking of MoUs and Service Agreements.

2.2.3.2 Through documentation review and interviews, the audit confirmed that there was no centralized repository for MoUs and Service Agreements.

2.2.3.3 The audit noted that various mechanisms were used by branches, such as AgriDocs, SharePoint, and the Change Control Management Mercury system used by STB's OIPC. Some branches were migrating between systems during the audit. For example, PAB's agreements were previously stored in AgriDocs and were moved to SharePoint in the past four months.

2.2.3.4 Through interviews and discussions with senior branch representatives, the audit determined that without a corporate repository, there was limited awareness of the MoUs and Service Agreements in place within their branch and across the organization. The lack of awareness of current MoUs and Service Agreements increases the risk of senior management's inability to manage the arrangements and/or to meet any of AAFC's obligations. For example, in the event of staff turnover, expiry/renewal dates may not be known or may be missed. The lack of a corporate repository would also impede horizontal coordination among branches.

#### Recommendation 2

The ADM, Information Systems Branch should lead in a department-wide initiative in developing a repository for MoUs and Service Agreements.

#### Management Response and Action Plan

Agreed. Based on the requirements, procedures and guidelines developed for Recommendation 1, ISB will develop an electronic repository to capture all departmental MoUs and Service Agreements. The repository will take into account best practices and lessons learned from similar types of repositories in other federal government organizations.

The development of the repository will begin once the guidelines from Recommendation 1 are finalized.

The repository will be housed on departmental networks and made available to all branches. The maintenance and update of information stored in this repository will be the responsibility of each branch and the delegated authority for which the MoU or Service Agreement applies.

**Lead Responsible:**

Director General, Application and Knowledge Services, Information Systems Branch

**Target Date for Completion:**

May 2019

## ANNEX A: DEFINITIONS

As per the TBS *Guideline on Service Agreements*, the definitions for MoUs and Service Agreements are as follows:

### 1. Memorandum of Understanding

A Memorandum of Understanding defines the broad parameters of a service relationship between the parties to the agreement, the service vision, and the exercise of decision-making authorities.

### 2. Service Agreement

A service agreement is a formal agreement between two or more parties (e.g., between departments, between a department and a common or shared service provider, or between various levels of government) that articulates the terms and conditions of a particular service relationship.

## **ANNEX B: AUDIT CRITERIA**

### **1. Line of Enquiry 1: Governance**

- An oversight function has been established for MoUs and Service Agreements.

### **2. Line of Enquiry 2: Control Processes**

- Guidance, management, and coordination activities are in place.