



**INDUSTRY CANADA
LEGAL SERVICES UNIT**

March 8, 2012

Internal Audit Branch

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STATEMENT OF ASSURANCE

We have completed the internal audit of the Industry Canada (IC) Legal Services Unit (LSU). The internal audit was planned and conducted in accordance with the *Internal Auditing Standards for the Government of Canada* and the Institute of Internal Auditors' *Standards for the Professional Practice of Internal Auditing*.¹

The audit was undertaken in a manner consistent with the Treasury Board (TB) *Policy on Internal Audit* and related guidelines and procedures, and with generally accepted auditing standards. In our professional judgment, sufficient and appropriate audit procedures have been conducted and evidence gathered to support the accuracy of the opinion provided and contained in this report. The opinion is based on a comparison of the conditions, as they existed at the time of the audit (October 2010 - March 2011), against pre-established audit criteria that were agreed on with management.

Original signed by

Cheryl Driscoll CIA, CGAP, CCSA, CRMA
Chief Audit Executive

Date

¹ The Internal Audit Branch has not undergone an external assessment at least once in the past five years or been subject to ongoing monitoring or to periodic internal assessments of its internal audit activity that would confirm compliance with these standards.

EXECUTIVE SUMMARY

Audit Opinion/Overall Conclusion

The management framework of the Industry Canada (IC) Legal Services Unit (LSU) is operating effectively and adequately supports the delivery of legal services to the client department. Open communication at all levels and the implementation of individual memoranda of understanding (MOUs) with each client sector within Industry Canada ensure that client needs are addressed in a timely fashion and that the LSU responds to these needs according to set performance standards.

In its MOUs with IC, management has developed feedback mechanisms to determine the client's level of satisfaction with LSU services on a more regular basis than the departmental survey conducted every three years. Overall, clients are satisfied with the services provided by the LSU.

Human, financial, and material resources are effectively managed with the appropriate number and mix of human resources to meet current client requirements for legal services; strong control over the IC LSU's budget and financial reporting; and appropriate security measures to safeguard assets and ensure confidentiality of information. LSU management has also implemented procedures to ensure that the LSU is in compliance with the *Official Languages Act*.

In the area of Information Systems and Management, the LSU has access to a variety of information systems that support decision making, objective setting, and resource utilization. Controls have been implemented that ensure the information generated from these systems is adequate, reliable, and complete.

The Department of Justice has established dedicated LSUs for most government departments and agencies. These units provide the client organizations with legal advice, represent the Crown in civil litigation and before administrative tribunals, draft legislation, and respond to other legal requirements.

The overall objective of the audit was to provide assurance that the IC LSU's management framework is effective. The scope of the audit included the operations and activities of the IC LSU, which is located in the National Capital Region. The planning and on-site examination phases of the audit were carried out between October 2010 and March 2011.

1. INTRODUCTION

1.1 Background

1.1.1 The Industry Canada (IC) LSU provides primarily legal advisory services to all sectors of Industry Canada, with the exception of the Competition Bureau. Specialized practice areas are commercial law, corporate law, intellectual property, trade law, telecommunications, administrative law, criminal law, and bankruptcy and insolvency. The LSU is headed by a Senior General Counsel (Executive Director), who is supported in his management role by the General Counsel (Deputy Executive Director). The LSU organizational chart identifies 60 legal positions, four paralegal positions, and one position in patent law. These are supported by 21 administrative staff and one paralegal who are employees of Industry Canada.

1.1.2 The Department of Justice is responsible for the salaries of LSU lawyers, while the client department assumes the cost of support staff, office materials, supplies, and equipment, and provides furnished accommodation to the LSU. Legal services are billed to the client department based on a set formula and are paid through interdepartmental settlements.

1.1.3 The risk factors that were considered in relation to this audit entity include: impact of legal work on the client department; ability to respond to client demand for legal services; appropriateness of linkages with Department of Justice organizations; the level of efficiencies in the organization and in workload management; adequacy of information for decision making; accurate reporting of performance information; provision of consistent legal advice and litigation services; management of electronic information; and appropriateness of linkages with the client department.

1.1.4 The IC LSU was identified for audit in the departmental 2010-11 to 2012-13 Risk-based Audit Plan approved by the Deputy Minister.

1.2 Audit Objectives and Scope

1.2.1 The overall objective of the audit was to provide assurance that the IC LSU's management framework is effective.

1.2.2 The scope of the audit focused on:

- the management control framework in place;
- the management of human, financial, and materiel resources;

- the reliability of information contained in information systems for decision making and accountability;
- the LSU's compliance with the *Official Languages Act*;
- risk and legal file management and forecasting demand for legal services;
- interfaces with other Justice sectors and the client department;
- client satisfaction.

1.2.3 The auditors did not review client files and reports containing case-related information due to confidentiality of the case information and solicitor-client privilege.

1.3 Audit Criteria

1.3.1 Audit criteria were developed in consideration of the risks identified during the planning phase of the audit and were derived from the TBS Management Accountability Framework, the *Guidance on Control* issued by the Criteria of Control Board (CoCo) of the Canadian Institute of Chartered Accountants, and the TB *Policy on Internal Audit*. For detailed criteria, see **Appendix A**.

1.4 Approach and Methodology

1.4.1 The planning and on-site examination phases of the audit were carried out between October 2010 and March 2011. The audit included documentation available as of February 2011. Auditors reviewed transactions from fiscal years 2009-10 and 2010-11. A detailed description of the approach and methodology is outlined in **Appendix B**.

2. AUDIT OPINION/OVERALL CONCLUSION

2.1 The management framework of the IC Legal Services Unit LSU is operating effectively and adequately supports the delivery of legal services to the client department. Open communication at all levels and the implementation of individual MOUs with each client sector within Industry Canada ensure that client needs are addressed in a timely fashion and that the LSU responds to these needs according to set performance standards.

2.2 In its MOUs with IC, management has developed feedback mechanisms to determine the client's level of satisfaction with LSU services on a more regular basis than the departmental survey conducted every three years. Overall, clients are satisfied with the services provided by the LSU.

2.3 Human, financial, and material resources are effectively managed with the appropriate number and mix of human resources to meet current client requirements for legal services; strong control over the IC LSU's budget and financial reporting; and appropriate security measures to safeguard assets and ensure confidentiality of information. LSU management has also implemented procedures to ensure that the LSU is in compliance with the *Official Languages Act*.

2.4 In the area of Information Systems and Management, the LSU has access to a variety of information systems that support decision making, objective setting, and resource utilization. Controls have been implemented that ensure the information generated from these systems is adequate, reliable, and complete.

APPENDIX A - AUDIT CRITERIA

The audit criteria were developed during the planning phase of the audit and included relevant criteria to address specific risks identified in the planning phase.

Audit Criteria	Results
1.1.1 The governance and strategic directions for the Staffing, Resourcing, and Corporate Programs are clear and reflected in the organization's plans and policies.	Met
1.2.1 Senior management have developed and maintained an overall quality plan. There is a regular monitoring of progress against the plan, and corrective action is taken as required.	Met
1.3.1 Roles and responsibilities are clearly defined, logically organized, and documented through a formal organization chart. The mix of resource use is established according to a rational set of factors that reflects management needs, client requirements, complexity, and other risk considerations.	Met
1.4.1 Resource usage is monitored, including workload and tracking of work progress and output according to established priorities and plans.	Met
1.5.1. Communications are efficient, formalized, and documented.	Met
2.1.1 The organization has sufficient human, financial, and material resources to achieve its mandate and meet the client's needs.	Met
3.1.1 The information systems in place support decision making, priority setting, and resource utilization.	Met
4.1.1 Appropriate policies and procedures are implemented to ensure adherence to the <i>Official Languages Act</i> .	Met
5.1.1 Effective risk management practices ensure an appropriate management of legal files.	Met
5.1.2 There are procedures in place to support efficient forecasting of demand for legal services.	Met
6.1.1 Key needs of other sections (e.g. Public Law Sector, Civil Litigation) have been clearly identified and communicated.	Met
6.1.2 Information provided and received is timely, accurate, and clear.	Met
7.1.1 Clients needs are clearly identified and performance measurement processes are in place to assess the client's satisfaction with the level of services delivered.	Met

APPENDIX B – METHODOLOGY

The audit was conducted based on the following methodology:

- an analysis of the management control framework in place using a risk-based approach related to key elements of the framework;
- a review of the relevant policies supporting the framework, including, but not limited to:
 - a. *Department of Justice Learning Policy*
 - b. *Accountability Framework for MOUs Related to the Provision of Legal Services*
 - c. *Treasury Board Common Services Policy*
 - d. *Department of Justice Information Management Policy*,
 - e. *Department of Justice National Timekeeping Protocol*
 - f. *DOJ Legal Services Policy Framework*
 - g. *Departmental Performance Review and Employee Appraisal Policy*
- discussions with the stakeholders and a review and analysis of all documentation collected throughout the audit, including minutes of meetings, procedures manuals, charts, and reports, including, but not limited to:
 - a. *Law Practice Management Business Plan 2010-2011*
 - b. *iCase Business Standards*
 - c. *User’s Guide To The Memorandum Of Understanding Between The Department Of Justice And Federal Government Departments And Agencies For The Provision Of Legal Services*
 - d. *Accountability Framework For Memoranda Of Understanding Relating To The Provision Of Legal Services*
 - e. *An Overview on Quality Assurance Presentation to the Working Group on the Quality Assurance Framework Initiative*
 - f. *Information Management Services Division “Guideline on Managing Information in the Department of Justice”*
 - g. *“In My Opinion: Best Practices Of Department Of Justice Counsel In Providing Legal Advice”*
- interviews with staff from the LSU, Department of Justice, and Industry Canada;
- an examination of the premises;
- a review of a sample of files from the iCase *Legal Risk Management Mandatory Data Audit Report*;
- a review of 50 emails from the LSU, Industry Canada, and other sectors of the Department of Justice, dated from January 7, 2008 to February 7, 2011.