TAX LAW SERVICES
Prairie Region

July 2011

Internal Audit Branch

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STATEMENT OF ASSURANCE

We have completed the internal audit of Tax Law Services – Prairie Region. The overall objective of the audit was to provide assurance that the management framework within which the TLS – Prairie Region operates is effective.

In The internal audit was conducted in accordance with the requirements of the Treasury Board (TB) *Policy on Internal Audit* and the Institute of Internal Auditors' *Standards for the Professional Practice of Internal Auditing.*[1]

The audit team assessed the management framework against criteria derived from the Committee of Sponsoring Organizations (COSO) Entity Level Control Framework, the TB Core Management Control Framework, the TB Management Accountability Framework (MAF), as well as TB audit guides. The audit incorporates key elements of the MAF under the various audit objectives.

In our professional judgment, sufficient and appropriate audit procedures have been conducted and evidence has been gathered to support the accuracy of the conclusions reached and contained in this report. The conclusions were based on a comparison of the situations, as they existed at the time of the audit, against audit criteria. It should be noted that the conclusions are only applicable to the areas examined.

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[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

Overall Opinion

Overall, we found that the practices, procedures, and activities relating to the framework within which the TLS – Prairie Region delivers its services to clients were sound. The TLS – Prairie Region has management and control structures in place to support the effective delivery of its services to clients; however, the audit identified some areas for improvement. These include the formalization of succession planning activities, the conduct of an organizational review to assess the appropriate number of senior counsel for the Winnipeg office, the capability for administrative assistants to view financial reports, and the consideration of options to improve the reliability of related information systems.

Background

The Department of Justice Tax Law Services (TLS) Portfolio provides legal advice and litigation services to the Canada Revenue Agency (CRA) in various regions across Canada. The Portfolio is responsible for representing the Crown in all tax-related matters before the courts.

The TLS – Prairie Region provides a wide range of legal services to the CRA, including conducting litigation before the Tax Court of Canada, the Federal Courts, and the provincial superior courts in Alberta, Saskatchewan, and Manitoba.

The scope of the audit included the operations and activities of the Tax Law Services section in the Prairie Region, which consists of offices located in Edmonton, Winnipeg, Saskatoon, and Calgary. The audit planning and on-site examination phases were carried out between May and November 2010.

Management Framework

The TLS – Prairie Region has a sound management control framework that includes the following key management functions: governance and strategic direction, business planning, organizing, controlling, and leading and communicating.

The TLS – Prairie Region has an appropriate oversight body in place effectively providing operational guidance and direction. The National Tax Board of Directors is the central oversight body for the TLS Portfolio. Senior management from the TLS – Prairie Region are included in the membership composition of the National Tax Board of Directors. Its meetings serve as the primary forum for discussion and strategic decision making.

The TLS – Prairie Regional Director conducts semi-annual business planning sessions with the TLS Portfolio Business Management Section and the Assistant Deputy Attorney General (ADAG), TLS Portfolio, as well as regular bi-weekly conference calls (bi-laterals) with the ADAG to discuss issues relating to the TLS – Prairie Region. The TLS – Prairie Region has also developed a formal written business plan to guide TLS activities within the region. The TLS – Prairie Regional Director works with the senior management team in Edmonton and Winnipeg to update the plan each quarter and reflect developments related to each business planning initiative.

The organization of the TLS – Prairie Region is appropriate and roles and responsibilities are generally understood. TLS – Prairie Region senior management conduct regular meetings to discuss pertinent organizational and financial matters. The TLS – Prairie Regional Director reports to the Regional Director General (RDG) of the Prairie Region and communicates directly with the ADAG in the TLS – Portfolio Office on all significant tax law matters. Clear job descriptions define the responsibilities of each job category and classification level. We found that the organizational structure allows for management and staff to be clearly held accountable for the conduct of their duties.

The TLS – Prairie Region has an appropriate legal file assignment process in place. The Associate ADAG (Tax Assessment) ascribes an initial risk level and complexity to a file and then assigns the file to a TLS regional office. Once the file is allocated to the Alberta TLS – Prairie regional office, the Regional Director evaluates the initial risk assessment and complexity level and, in consultation with the Deputy Regional Director, team leaders and, where appropriate, senior cadre, determines which legal counsel should be assigned to the file based on an assessment of the knowledge, skills, and experience level of counsel and the capacity of counsel.

Effective communication exists in the TLS – Prairie Region to provide the appropriate level of leadership, guidance, and direction for TLS personnel. The level and extent of the TLS Portfolio Office's direction to and communication with TLS – Prairie Region senior management assists the TLS – Prairie Regional Director in providing effective, timely communication and leadership to Prairie Region staff. Regular meetings occur between TLS – Prairie Region senior management and the TLS Portfolio Office and open lines of communication are maintained. In addition, the audit team determined that the information system Fiscal Path facilitates the dissemination of necessary Portfolio information.

Human, Financial, and Materiel Resources

Formal succession planning documents are not in place in the TLS – Prairie Region. Succession planning activities in the TLS – Prairie Region focus on knowledge transfer activities and informal succession planning considerations rather than on the replacement of people. However, these activities have not been formalized in an official succession plan. Due to the highly technical nature of tax law casework, there is a need to maintain sufficient expertise to address workload capacities. In our opinion, the TLS – Prairie Region should develop a formal succession plan and update it on a regular basis.

The TLS – Prairie Region has an appropriate ratio of legal counsel to legal assistants to assist counsel in completing their case files. However, we were told that the current complement of senior counsel within the TLS Winnipeg office is inadequate to meet the demands of senior level work. The Director (Acting) has had to refuse complex files allocated to the office due to the insufficient number of senior counsel available to conduct the work. The TLS – Prairie Regional Director should conduct an organizational review to capitalize on efficiencies and to determine the appropriate number of senior counsel for the Winnipeg office.

An effective performance appraisal process exists in the TLS – Prairie Region to evaluate employees and it is operating effectively.

Both paralegals and legal counsel advised that legal counsel are relying more on the Ringtail system to manage legal documents, and consequently, legal support staff must be proficient with its functionality. We were told that in the TLS – Prairie Region, paralegals in particular require additional training on using Ringtail. The audit team was advised that specific Ringtail training is planned for all TLS Portfolio staff beginning in the fall of 2010 and that the TLS – Prairie Region has planned several Ringtail "Lunch and Learns" for early 2011.

We also found that TLS – Prairie Region personnel complete annual individual learning plans and are meeting the five-day minimum requirement for training under the Department's *Learning Policy*.

Flexible work arrangements within the TLS – Prairie Region are appropriate and made available to all staff. TLS – Prairie Region senior management grant approvals for flexible work arrangements on a case-by-case basis. All management decisions appropriately consider client obligations and court deadlines prior to the approval of flexible work arrangements.

TLS – Prairie Region senior management advised the audit team that the implementation of the Law Practice Model is a significant factor impacting all facets of operations including hiring and retention. We were told that the Law Practice Model limits management's ability to both promote capable staff and offer appropriate compensation to top recruits. TLS Portfolio senior management advised the audit team that the Portfolio has made a formal submission to the Deputy Minister Team to staff senior counsel for new complex and high-risk legal files.

The audit team determined that the TLS – Prairie Region effectively manages its financial resources and has an appropriate planning and budgeting process. There are no formal TLS-specific procedures manuals in place to help guide administrative personnel. However, TLS – Prairie Region personnel refer to both departmental and Treasury Board Secretariat policies and procedures manuals when assistance is required. Personnel at all levels communicate with the appropriate groups, such as the Portfolio Business Management Section and Prairie Regional Corporate Services, to obtain further guidance and direction when required.

Regional Corporate Services in the Prairie Region provides TLS – Prairie Region senior management with regular financial reports. TLS – Prairie Region administrative assistants regularly review these reports and reconcile expenses. This review helps ensure the accuracy of accounts being used for expense allocation and validates expenditures that originate within the TLS – Prairie Section. However, the audit team found that administrative assistants are unable to produce financial reports on demand from their workstations and must rely on the monthly reports provided by Regional Corporate Services. Greater efficiencies would result if administrative assistants in the TLS – Prairie Region were provided with the capability to view financial reports from their workstations.

The audit team determined that intellectual and physical assets are appropriately protected in the Edmonton and Winnipeg offices, the two Prairie Region offices that the audit team visited. Access to the Edmonton and Winnipeg office buildings is restricted and controlled by valid security identification cards. Computer workstations are password-protected and access to files maintained on iCase is only granted to TLS – Prairie Region staff.

Information Systems

TLS – Prairie Region personnel stated that the search function of the TLS Portfolio system known as Fiscal Path is not user-friendly. Rather than rely on Fiscal Path, TLS – Prairie Region personnel will revert to other sources of research when preparing legal factums and other relevant documents for court proceedings. Fiscal Path is a TLS Portfolio system and options for improving its search functionality should be pursued.

Timekeeping information and legal file administration within the TLS – Prairie Region is appropriately managed through the use of iCase. TLS – Prairie Region senior management are satisfied with the information contained in the reports produced by iCase and they effectively use these reports in monitoring workload, identifying trends, overseeing employee timekeeping records, and formulating management decisions.

Compliance with Key Legislation

The TLS – Prairie Region is in compliance with key legislation and policies. The Portfolio Business Management Section conducts random spot checks of the TLS – Prairie Region and reviews sample transactions throughout the year to verify the appropriateness of the transactions and compliance with policies. Appropriate management procedures are in place to ensure compliance is maintained within the TLS – Prairie Region.

Risk Management and Legal File Management

The early identification and continual monitoring of legal file risk and its potential impact on the client is a fundamental aspect of the TLS – Prairie Region's risk management activities. The Associate ADAG (Tax Assessment) ascribes an initial risk level and complexity to a file and then assigns the file to a regional office. Once a file is allocated to the Alberta TLS – Prairie Region, the Regional Director evaluates the initial risk assessment and, in consultation with the Deputy Regional Director, team leaders and, where appropriate, senior counsel cadre, determines which legal counsel should be assigned to the file based on an assessment of the knowledge, skills, and experience level of counsel, and the capacity of counsel. The Director (Acting) initially assesses all files allocated to the Winnipeg office from the Associate ADAG. The Director (Acting) allocates files based on his knowledge of the skills and experience level of his legal team. During the life cycle of each client file, the ratings are monitored and revisited to ensure that they remain relevant as the case develops. Continual communication with the client supports the TLS – Prairie Region legal counsel in determining each rating's significance. There

are dedicated meetings with the client to address high-risk files and to regularly review litigation risk. The audit team determined that risk management in the TLS – Prairie Region is appropriate.

The TLS – Prairie Region is efficient in managing and administering the legal files that are assigned to the TLS – Prairie Region. The audit determined that the client is consistently satisfied with the management of legal files by the TLS – Prairie Region personnel and that the TLS – Prairie Region consistently meets court-appointed deadlines and procedures.

The TLS – Prairie Region conducts litigation primarily concerning tax decisions made by the CRA. As this litigation is reactive, forecasting future demand for TLS legal services is challenging. Although there is no formal forecasting process in place, to the extent possible, TLS – Prairie Region is effective in forecasting and managing the demand for future legal work through effective, ongoing communication and numerous meetings with the CRA, and persistent monitoring of current client files.

Interfaces with other Justice Sectors and Client Departments

There is an appropriate level of communication with other Department of Justice sectors. TLS – Prairie Region personnel effectively utilize both formal and informal means of communication with other sectors of the Department. The deputy regional directors from all portfolios within the Prairie Region meet monthly to discuss issues facing the Department. When tax matters encroach on other areas of the Canadian legal system, the TLS – Prairie Region effectively seeks guidance and direction from legal counsel in other portfolios who have the appropriate specialized skills in the required area.

Interfaces with the CRA are appropriate. There is ongoing, continuous communication through regular meetings. We found that the number of committees in place, each with its own specific purpose, objectives, and expected outcomes, as well as the TLS – Prairie Region's membership and direct involvement in these committees increases efficient communications and effective direction in the normal day-to-day course of business.

Client Satisfaction

The central client of the TLS – Prairie Region is the CRA. Both the TLS – Prairie Regional Director and the Director (Acting) separately conduct regularly scheduled meetings with the CRA to discuss ongoing case matters and any issues that may exist. In addition, they hold ad hoc meetings as required to seek guidance and information. We determined that the CRA is satisfied with the TLS – Prairie Region's level of service. The 2008 TLS Portfolio client feedback survey indicates that CRA satisfaction levels are high.

The management responses to the recommendations contained in this report were provided by the Regional Director, Tax Law Services – Prairie Region.

1.   INTRODUCTION

1.1   Background

The Department of Justice employs approximately 4,300 individuals and delivers legal advisory, litigation, and legislative and regulatory drafting services. The Department provides legal services to government on a portfolio basis. Six portfolios encompass the entire range of federal departments and agencies.

The Tax Law Services (TLS) Portfolio is dedicated to providing legal services to the Canada Revenue Agency (CRA). Under the authority of the *Canada Revenue Agency Act*, the CRA is responsible for the administration of tax programs as well as the delivery of economic and social benefits. It also administers certain provincial and territorial tax programs. The CRA promotes compliance with Canada's tax legislation and regulations and plays an important role in the economic and social well-being of Canadians.

The Assistant Deputy Attorney General (ADAG), Tax Law Services heads up the TLS Portfolio, which is comprised of approximately 300 counsel. There is also a departmental legal services unit (LSU) co-located with the CRA. The TLS Portfolio delivers legal services through seven regional TLS sections located across the country[2]. This audit focused on the regional TLS section located in the Prairie Region.

The TLS Portfolio in the Prairie Region provides a complete range of legal services to the CRA, including conducting litigation before the Tax Court of Canada and the Federal Court of Canada in Alberta, Saskatchewan, and Manitoba. It deals with disputes concerning assessments and reassessments of taxes by CRA under the *Income Tax Act*, the *Excise Tax Act* (GST), and selected issues under the *Employment Insurance Act* and *Canada Pension Plan*. Counsel also provide legal services with respect to non-assessment matters affecting the CRA and the collection of debts owing to the Crown, and represent the federal Crown's interest in bankruptcy proceedings.

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[2] TLS regional sections are located in Halifax, Montreal, Ottawa, Toronto, Saskatoon and Winnipeg, Edmonton, and Vancouver.

The TLS – Prairie Region consists of 85 staff and has an annual O&M and Salary budget for 2010-11 of approximately $9.5 million. The two largest offices are located in Edmonton and Winnipeg, having 48 and 22 staff respectively. The Saskatoon office comprises 13 staff, while the Calgary office supports the Edmonton office and consists of two staff members only.

The key risk factors that were considered in relation to this audit entity include: impact of legal work on the programs and activities of the CRA; appropriateness of linkages with Department of Justice organizations; ability to respond to client demand for legal services; 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. These risk factors were considered in the development of the audit program.

1.2   Audit Objectives and Scope

The main objective of this audit was to provide assurance that the management framework within which the TLS – Prairie Region operates is effective.

The scope of the audit included the operations and activities of the TLS – Prairie Region. The audit focused on: practices, procedures, and activities relating to the management control framework and the management of human, financial, and materiel resources; reliability of information contained in information systems; compliance with key legislation and related policies; risk and legal file management and forecasting demand for legal services; interfaces with other Justice sectors and client departments; and client satisfaction

The scope of the audit included the operations and activities of the TLS Section in the Prairie Region.

The planning and on-site examination phases of the audit were carried out between May and November 2010.

2. OBSERVATIONS – MANAGEMENT CONTROL FRAMEWORK

2.1 Governance and Strategic Direction

An oversight body is in place and operating effectively.

Governance and strategic direction are essential components of an effective business operation allowing for internal coherence, corporate discipline, and alignment to planned objectives. These components also provide managers with the ability to effectively allocate human and financial resources to address priorities in an ever-changing environment.

The National Tax Board of Directors (NTBD) is the oversight body in the TLS Portfolio, providing strategic guidance and direction to all sections of the Portfolio. The mandate of the NTBD states that the NTBD is the "primary forum of consultation and strategic decision making for questions of a functional nature and of national interest within the mandate of the Portfolio." The ADAG, Tax Law Services chairs the NTBD, which is comprised of the following TLS Portfolio members:

- the ADAG
- the two Associate ADAGs
- all TLS Portfolio directors and deputy directors
- the Senior General Counsel who represents the CRA LSU
- the Senior Advisor to the ADAG
- the Director, Business Management Section

The NTBD meets in person three to four times per year, by teleconference on a bi-weekly basis, and as needed. The meetings address all operational matters as they relate to the achievement of TLS Portfolio plans and priorities.

The NTBD keeps abreast of national issues related to tax law matters through review and discussion of performance management reports documented in the "Blue Book". Last revised in

May 2010, the Blue Book is prepared by Portfolio management and provides the Portfolio with a performance management framework used to evaluate the Portfolio in its delivery of legal advisory and litigation services to the CRA. In addition to the performance management framework, the Blue Book includes an analysis of the achievement of priority areas related to international and large client files, cost benefit/effectiveness of operations, sound financial management related to FTEs and resources, and litigation results. The TLS – Prairie Region provides input into the Blue Book reporting process.

The NTBD monitors each region's progress towards the achievement of the strategic plans and provides necessary further direction. Management decisions are made during NTBD meetings and the TLS Portfolio directors communicate these decisions to their respective regional offices. These decisions are recorded in the Green Book, which was revised in February, 2010. The Green Book contains data on current year FTE distributions, budget allocations, revenue forecasts, and pertinent information related to planning for the coming fiscal year.

We reviewed the terms of reference for the NTBD including the mandate, meeting agendas and minutes, a sample of Blue Book reporting, a sample of decisions recorded in the Green Book, and relevant supporting documents pertaining to NTBD meetings. We found that the NTBD is an effective oversight body that includes the right mix of individuals to provide appropriate oversight and fulfill its mandate.

2.2   Business Planning

The TLS – Prairie Region has an appropriate business planning process.

Effective business planning activities and documentation are essential for directing an organization towards the achievement of management's strategic goals, priorities, and objectives. Formal plans need to incorporate objectives for all key areas of the organization.

The TLS – Prairie Region regularly communicates with the TLS Portfolio Office regarding business planning initiatives and progress toward its objectives. We were told that the Prairie Regional Director meets with the Portfolio Business Management Section and the ADAG at least twice a year to discuss the TLS – Prairie Region's business planning. The TLS – Prairie Regional Director and the ADAG also have regularly scheduled conference calls (bi-laterals) to discuss issues relating to the TLS – Prairie Region. The TLS – Prairie Regional Director also advised the audit team that there is ongoing communication with personnel in the Portfolio Business Management Section regarding business planning activities related to financial and resource requirements.

The audit found that the TLS – Prairie Region has a formal written business plan to guide TLS activities within the Prairie Region. The 2010-2011 Business Plan Prairie Regional Office – Tax Law Services outlines objectives that are incorporated into the Department's Regional Business Plan for the Prairie Region. Senior management in the TLS – Prairie Region regularly update the Prairie Region Business Plan. We found that the TLS – Prairie Regional Director, in conjunction with the Prairie Management Team, works with the Deputy Regional Director, the Director (Acting), and the Regional Director General (RDG) (Acting) to collaborate and update the plan each quarter to reflect developments related to each business planning initiative.

It is our opinion that through the development of its business plan, the TLS – Prairie Region has formalized its business priorities and provides appropriate direction toward the achievement of its strategic objectives.

2.3   Organizing

The organization of the TLS – Prairie Region is appropriate.

An effective organizational structure encompasses clear definitions of roles and responsibilities which are vital to the successful management of an organization.

The TLS – Prairie Region is comprised of four offices: Edmonton, Calgary, Saskatoon, and Winnipeg and is headed by the Regional Director. The TLS – Prairie Region also includes a Deputy Regional Director, a Director (Acting), six senior counsel, a Senior General Counsel, approximately 44 counsel, seven paralegals, 17 legal assistants, two iCase personnel, four administrative assistants, and an articling student.

Roles and responsibilities of the TLS – Prairie Region and the TLS – Portfolio are generally understood. The TLS Portfolio Office is responsible for all planning and organizing activities, in collaboration with the regional offices. The TLS – Prairie Region is responsible for providing litigation and advisory services to the CRA within the Prairie Region. The TLS – Prairie Regional Director reports to the RDG of the Prairie Region –on matters that affect the Prairie Region and communicates directly to the ADAG, TLS Portfolio to report on significant tax law matters.

From our consultations with TLS – Prairie Region senior management and legal counsel and our review of meeting minutes, we found that the Regional Director and Deputy Regional Director

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meet on a regular basis to discuss pertinent organizational and financial matters that pertain to the TLS – Prairie Region.

The TLS – Prairie Region has prepared job descriptions for each category of personnel. Based on our review of the delegation of authority tables, we found that there is appropriate delegation of authority in the TLS – Prairie Region. The Regional Director stated that the TLS – Prairie Region functions effectively with the current delegation of authority.

In conjunction with the ADAG, the TLS – Prairie Regional Director annually reviews the Prairie Region staffing plan as well as the level and skill set of resources in the section to assess workload requirements and assist in the appropriate distribution of case files to staff. This review process assists in ensuring that the TLS – Prairie Region is organized with the necessary combination of resources to address its complex files.

We found that the organizational structure in the TLS – Prairie Region allows for management and staff to be clearly held accountable for the conduct and completion of their duties.

2.4   Controlling

An appropriate file assignment process is in place and operating effectively.

Efficient control and administration over the workload assignment process is a fundamental aspect of a manager's ability to use human resources prudently. In a legal environment, the file assignment process must consider both the experience level and skill sets of resources.

The TLS – Prairie Region has approximately 50 lawyers having a broad spectrum of experience, from junior counsel who have recently been called to the Bar, to senior counsel with several years experience. Files are assigned to personnel who have the level of skills and experience to appropriately manage and complete the file work. The Associate ADAG (Tax Assessment), TLS Portfolio assigns general procedure files to regional TLS offices on a case-by-case basis with consideration given to the complexity and risk levels of each case. The TLS – Prairie Regional Director holds regularly scheduled meetings (twice weekly) with the Deputy Regional Director and team leaders to determine which legal counsel should be assigned to each file and ensures that large complex files are assigned to litigation teams that are led by senior lawyers in the Prairie Region who have the appropriate skills and experience. The assignment of large complex files often involves direct consultation with the senior counsel cadre. Informal procedures, EI and CPP Tax Court files, collections files, and non-assessment litigation files are assigned directly to counsel by the Deputy Regional Director and team leaders, in consultation with the

Director only if necessary. Appellate litigation files are assigned by the Director, in consultation with the Deputy Regional Director and the team leaders. Through interviews with TLS – Prairie Region personnel, we determined that these meetings are an effective and efficient means for appropriately assigning new files to counsel in the TLS – Prairie Region Office.

We found that the TLS Prairie Regional Director and her team have an effective communication process to effectively manage and monitor the file assignment process.

2.5   Leading and Communicating

Leadership and communication in the TLS – Prairie Region is appropriate.

Communication directly impacts an organization's ability to achieve success. Management must effectively design strategies to help ensure communication is timely, accurate, and appropriate in achieving planned goals and priorities.

During the audit we found that there are effective and efficient forms of communication within the TLS – Prairie Region. We found evidence that the Portfolio Office provides direction to the Prairie Region and shares information through meetings and by maintaining open lines of communication.

TLS – Prairie Region senior management communicate readily with the Portfolio Office by phone, email, or in person whenever guidance or assistance is required. TLS – Prairie Region senior management advised that the communication and direction from the TLS Portfolio Office is timely and effective. TLS – Prairie Region senior management further stated that due to the ease of communication with the TLS Portfolio, they are able to easily obtain required guidance/direction when necessary. The Director (Acting) advised that he speaks with the ADAG every second month to informally discuss activities within his office, such as the progress of certain files, concerns, and items of interest to the ADAG.

The ADAG and the TLS – Prairie Regional Director also have formal scheduled meetings every six to eight weeks (bi-laterals) to discuss matters relevant to the Prairie Region. In addition, the TLS Portfolio Office holds bi-weekly conference calls with all NTBD members. TLS – Prairie Region senior management convey information from these meetings to staff during the regular section meetings. The RDG (Acting) of the Prairie Region indicated that the efficient management practices related to legal files within the TLS – Prairie Region is a direct result of

positive, timely communication and direction from the both the TLS Portfolio Office and TLS – Prairie Region senior management.

We also found that the information system Fiscal Path provides the TLS – Prairie Region with pertinent information on the Portfolio's values, ethics, and practices.

In our opinion, leadership and communication in the TLS – Prairie Region is appropriate.

3. OBSERVATIONS – HUMAN, FINANCIAL, AND MATERIEL RESOURCES

3.1 Human Resource Planning

A formal succession plan for the TLS – Prairie Region needs to be developed and updated regularly.

Succession planning is a continuous, integrated, and systematic approach to developing and retaining employees and corporate knowledge in order to effectively sustain organizational operations. Succession planning activities often focus solely on senior management and leadership positions; however, best practices include consideration of all positions within an organization.

The Associate ADAGs advised the audit team that with respect to succession planning, the TLS – Portfolio focuses more on "knowledge transfer" than on the replacement of people. We found that the TLS – Prairie Region conducts succession planning activities to help facilitate knowledge transfer from senior to junior resources. These activities include the pairing of junior lawyers with more experienced senior lawyers for mentoring purposes. These measures facilitate the sharing of knowledge.

As part of the human resource planning process, regional TLS offices, such as the TLS – Prairie Region, work collaboratively with the TLS Portfolio Office to help develop human resource plans and strategic priorities, including succession plans. The Regional Director, Deputy Regional Director, and Director (Acting) are responsible for identifying the region's succession planning needs and addressing succession planning issues with the support of the TLS Portfolio Office.

The Regional Director advised the audit team that she has informal conversations with the Portfolio Office related to succession planning, and that succession planning is considered and incorporated into the TLS – Prairie Region staffing plan. However, the Regional Director stated that there is no formal succession planning document to guide succession planning initiatives in

the TLS – Prairie Region. We confirmed this through our interviews with the Director (Acting), TLS – Prairie Region and the RDG (Acting) of the Prairie Region, who further advised that the creation of a Prairie Region formal succession plan, including the TLS – Prairie Region, is part of his 2010-11 Performance Management Accord.

Senior management in both the TLS – Prairie Region and the TLS Portfolio Office acknowledged that there is a risk associated with the lack of a formal succession plan. Due to the highly technical nature of tax law casework, there is a need to maintain sufficient expertise to address workload capacities.

Succession planning is a critical component of sustaining adequate and appropriate corporate knowledge within an organization. Effective planning requires senior management to review and assess appropriate staffing levels and determine the appropriate technical expertise to meet the organization's mandate. In our opinion, the TLS – Prairie Region should develop a formal succession plan and update it on a regular basis.

Recommendation and Management Response

1.   It is recommended that the Regional Director, TLS – Prairie Region ensure that a formal TLS succession plan is developed and updated on a regular basis. (Medium Risk)

        Agreed. The TLS – Prairie Region will work in close collaboration with the office of the ADAG, TLS Portfolio to develop and implement a national succession plan. Completion date: In conjunction with the TLS – Prairie Region, TLS – Ottawa Section, and TLS regional offices, the TLS Portfolio will develop a national succession plan by the end of this fiscal year. This plan will be updated on a regular basis.

3.2   Number and Mix of Resources

The TLS – Prairie Region has an appropriate ratio of legal counsel to legal assistants.

The appropriate number and mix of resources deployed to work activities is critical to effective utilization of resources.

In the TLS – Prairie Region legal assistants provide important assistance to counsel during the lifecycle of a legal file (e.g. preparing process documents for filing in legal proceedings, preparing memoranda, and gathering and categorizing documents).

Both the TLS Portfolio Office and the Portfolio Business Management Section advised the audit team that an acceptable ratio of legal counsel to legal assistants is approximately 3:1. The audit team found that the TLS – Prairie Region has a ratio of legal counsel to legal assistants for each office as follows: Edmonton 3:1, Winnipeg 3.25:1, and Saskatoon 2.7:1. The Calgary office is a support office to the Edmonton office with only one legal counsel and one legal assistant. The TLS – Prairie Regional Director and the Director (Acting) stated that the number of legal assistants available was sufficient to support the TLS – Prairie Region's current workload.

In our opinion, the TLS – Prairie Region has an appropriate number of legal assistants available to assist legal counsel in completing their case files.

An organizational review is required to determine the appropriate number of senior counsel for the Winnipeg office.

The TLS – Prairie Region Winnipeg office has a limited number of senior counsel assigned to the office. The TLS – Prairie Regional Director and the Director (Acting) advised the audit team that the current complement of senior counsel within the Winnipeg office is inadequate to meet the demands of senior level work. The Director (Acting) stated that the Winnipeg office has been required to refuse complex files allocated to the office due to the insufficient number of senior counsel available to conduct the work.

The TLS – Prairie Regional Director stated that she would like to see an approach implemented that would promote individuals from within the Winnipeg office to senior counsel; however, the Law Practice Model makes this difficult, as it restricts the ability of management to hire additional senior counsel. We were advised that a formal request was made to the TLS Portfolio Office for permission to hire additional senior counsel to fill vacant positions in the Winnipeg office. Since the implementation of the Law Practice Model, some vacant positions have remained unfilled. Subsequent to the completion of audit fieldwork, we were informed that the TLS Portfolio Office had obtained the Deputy Minister's approval on behalf of the Winnipeg office to hire one additional senior counsel.

We concur with management's approach to promote from within the office if feasible. An organizational review would help the TLS – Prairie Region capitalize on efficiencies and identify an appropriate number of senior counsel for the Winnipeg office.

Recommendation and Management Response

2.   It is recommended that the Regional Director, TLS – Prairie Region conduct an organizational review to determine the appropriate number of senior counsel for the Winnipeg office. (Medium Risk)

Agreed. The Regional Director, TLS – Prairie Region has already conducted an organizational review of the allocation of senior counsel in all of the TLS Prairie Region offices in conjunction with a Senior Counsel Capacity Analysis. It is recognized that there is a "gap" in the senior counsel complement in Winnipeg – this "gap" has been created by the recent departures of senior counsel from Winnipeg, TLS. The constraints of the Law Practice Model have precluded TLS from being able to offer senior counsel positions in Winnipeg, TLS. That said, a number of initiatives were implemented last year to address the "gap" and to streamline and regionalize our work, increase efficiencies, and break down provincial barriers. Completion Date: January 2011.

3.3   Performance Review and Employee Appraisal Process (PREA)

The PREA process in the TLS – Prairie Region is appropriate.

Performance review is an ongoing process in which an employee and the manager/supervisor jointly establish and monitor objectives. Performance reviews and employee appraisals are intended to provide employees with regular feedback about their performance and identify training and development requirements. The PREA process ensures that employees are given clear work objectives against which their performance will be assessed. Continuous feedback and, at minimum, mid-year and year-end (annual) assessments, allow opportunity for recognition of their achievements and discussion of areas requiring improvement.

Through interviews with TLS – Prairie Region management and staff and a review of relevant documentation, the audit team found that a formal performance appraisal process exists to evaluate employees' performance, and it is operating effectively. The performance assessments include specific, measurable goals, and management assess results according to these goals and objectives.

3.4   Training and Development

Specific training on Ringtail is planned for all TLS Portfolio staff beginning in the fall of 2010.

Training must appropriately address the needs of the organization while contributing to the development of each employee's skill set.

The Department has implemented a fully automated litigation support software system known as Ringtail. The main objective of Ringtail is to assist the Department in managing the growing number of large, complex, and multi-document cases. It is also intended to assist with the initiative of moving toward a paperless environment.

The TLS – Prairie Region has a dedicated resource who provides support for Ringtail. The audit team found that Ringtail training is provided to TLS – Prairie Region personnel who have been identified as having an immediate need to access the Ringtail system. Within the TLS – Prairie Region, the Litigation Support Centre is responsible for identifying which employees require training and informing users of upcoming training sessions. In the TLS – Prairie Region there are two categories of training offered: orientation/familiarization training and hands-on training.

The first category, orientation/familiarization training, is designed to introduce legal counsel and support staff, including paralegals, to the basic functional requirements of Ringtail. The intent of these training sessions is to encourage TLS – Prairie Region personnel to understand and use the application when appropriate. The Litigation Support Centre promulgates these training sessions through information made available on the Department's Intranet. In the near future, the Litigation Support Center is also planning to make video demonstrations available to TLS – Prairie Region staff and to hold seminars.

The second category, hands-on training, is delivered in a one-on-one or small group format. The training is delivered by the Litigation Support Centre and targeted to individuals who use Ringtail throughout the life of a file.

The audit found that the TLS – Prairie Region also planned several Ringtail "Lunch and Learns" for the early part of 2011. These sessions are intended to address various topics from an introduction to Ringtail through to advanced coding and advice on searching for documents.

We were told that in the TLS – Prairie Region, paralegals in particular require additional training on using Ringtail. Both paralegals and legal counsel advised that legal counsel are relying more on the Ringtail system to manage legal documents, since Ringtail is a very good document management tool, which is accessible wherever a secure Internet connection exists. As more legal counsel use Ringtail, paralegals will require more knowledge of and proficiency with the system.

TLS Portfolio Office senior management advised the audit team that Ringtail training specifically tailored to the needs of individual staff groups (e.g. counsel, paralegals, legal assistants) is planned for the early fall 2010 for all personnel in the Portfolio.

TLS – Prairie Region personnel complete individual learning plans and meet the five-day minimum requirement for training under the Department's *Learning Policy*.

Individual Learning Plans (ILPs) are plans developed in partnership between a manager and employee. The individual learning plan identifies learning goals, associated learning activities, target dates, and the required investment on the part of the Department and of the employee.

The Department's *Learning Policy* requires that every employee receive a minimum of five days of professional development each year. In an effort to record, monitor, and satisfy the mandatory training obligation, all employees must develop an ILP each year. This is done in conjunction with the annual PREA cycle.

We found that TLS – Prairie Region personnel meet their mandatory five-day annual training requirement. We were told that ILPs are generally prepared at the beginning of each new fiscal year during the annual PREA process. Interviews with TLS – Prairie Region personnel indicated that they are generally able to attend the desired training sessions as long as the training relates to their duties and sufficient funds exist within the training budget.

It is our opinion that the TLS – Prairie Region has appropriately met the Department's requirement for professional development and TLS – Prairie Region personnel have appropriately completed their ILPs.

3.5   Flexible Work Arrangements

Flexible work arrangements in the TLS – Prairie Region are functioning appropriately.

The Department of Justice recognizes the need to support employees in balancing their work and personal lives, while maintaining its ability to operate effectively.

In the TLS – Prairie Region we found that flexible work arrangements are used to attract and retain employees. Senior management indicated that the benefits of flexibility are emphasized to potential recruits during the recruiting process. Both senior management and staff indicated that flexible work arrangements have been made available to all TLS – Prairie Region personnel.

We found that flexible working hours, telecommuting, and earned days off (also known as variable or compressed workweek) are the central forms of flexibility offered in the Prairie Region. Flexible working hours are arrangements in which an employee is authorized to begin and end the workday between certain hours as long as the employee's workday hours conform to the core hours of between 9:30 and 15:30.

Telecommuting, or working from home, is available in ad hoc situations only. We were told that each request to work from home is reviewed and approved on a case-by-case basis and the staff member must be available during the normal course of a business day. The Regional Director indicated that TLS – Prairie Region staff are not permitted to work from home on a regular basis due to the security issues surrounding CRA data, client privacy, and the overall nature of legal work.

In the TLS – Prairie Region, the earned day off is scheduled as a fixed day that occurs once an employee has earned the day. Employees earn days by working an increased number of hours per day over a given period of time. In the Prairie Region, the earned day off is a reoccurring day that usually falls on the last day of the compressed work week schedule. Through interviews with TLS – Prairie Region senior management and staff, we found that there is a measure of flexibility and reasonableness with respect to a staff member being able to take time off on the appointed date. When workload deliverables and deadlines require the presence of the TLS staff member (i.e. in the office or at court), the earned day off is rescheduled. Senior management stated that if TLS staff are required to be in the office on their earned day off, they will, with approval from their supervisor, be able to move the scheduled day off to the early part of the following week.

Overall, we found that TLS – Prairie Region supports employees in achieving a balance between their professional and personal lives while maintaining a functional and professional office.

In our opinion, flexible work arrangements are available to employees and are working well within the TLS – Prairie Region.

3.6 Law Practice Model (LPM)

The TLS Portfolio made a submission to the DM Team to staff senior counsel for new complex and high-risk legal files.

The ability to hire and compensate both senior counsel and individuals with the appropriate, relevant technical expertise is essential for an effective and proficient legal workforce. Salary level is a significant factor in recruiting and retaining legal counsel.

In the fall of 2009, the Department implemented the Law Practice Model as part of a move to cut approximately $12.5 million from the Department's overall budget as identified through a 2008 Strategic Review. In doing so, the Law Practice Model directly impacted how the Department's portfolios were structured with respect to the number of lawyers comprising each classification level.

The Department of Justice has six distinct classification levels that apply to legal personnel (LA-1 to LA-3C). The salary level for each classification reflects the complexity of work and specialized legal expertise of the position. During our consultations with TLS – Prairie Region personnel and management, we were advised that salary levels for counsel within the TLS Portfolio and the Department of Justice are not as competitive as those offered by the private sector and some provincial governments. To mitigate this challenge, management stated that TLS – Prairie Region recruiters now emphasize the rich variety of TLS legal work, mentorship opportunities from highly trained and very experienced TLS counsel, and flexible work arrangements.

The TLS – Prairie Region senior management advised the audit team that the implementation of the Law Practice Model is a significant factor impacting all facets of operations including hiring and retention. There is a perception that the Law Practice Model limits management's ability to both promote capable staff and offer appropriate compensation to top recruits. TLS – Prairie Region management emphasized that the Law Practice Model does not support the highly technical and specialized demands of TLS work and the requirement for senior counsel. Prairie Region management advised that the implementation of the Law Practice Model has in effect

resulted in junior lawyers working on complex case files and that this work allocation is not sustainable. The TLS – Prairie Regional Director and the Director (Acting) advised the audit team that the current complement of senior counsel within the Winnipeg office is inadequate to meet the demands of senior level work. We were told that the Winnipeg office has had to refuse complex files allocated to the office due to the insufficient number of senior counsel available to conduct the work.

TLS Portfolio senior management advised the audit team that the Portfolio has made a formal submission to the Deputy Minister requesting to staff senior positions to address the issues noted above. It should be noted that subsequent to the completion of audit fieldwork, the TLS Portfolio Office had obtained the Deputy Minister's approval on behalf of the Winnipeg office to hire one additional senior counsel.

3.7   Procedure Manual

There is appropriate procedural guidance for administrative personnel in the TLS – Prairie Region.

Effective organizations consistently prepare detailed job descriptions, procedure manuals, and guiding documents for their employees. Procedure manuals are intended to provide formal guidance and comprehensive information on completing a particular task. If procedure manuals are not in place, an organization should have other appropriate options available to assist administrative personnel and other non-legal personnel through unfamiliar situations.

We found that there are no formal TLS-specific procedure manuals in place to help guide administrative personnel in their assigned duties. However, administrative personnel in the TLS – Prairie Region stated that sufficient departmental manuals and TBS guiding documents are available for reference purposes when administrative staff encounter new situations. Although more formalized TLS-specific manuals could benefit the TLS – Prairie Region administrative staff, the audit team was informed by administrative personnel that they rely on the services of the Portfolio Business Management Section and Regional Corporate Services for guidance and direction. Administrative personnel further advised that they are satisfied with the guidance and direction they receive from both groups.

We also found that administrative personnel use the TLS information system, Fiscal Path, to obtain additional guidance on TLS-specific matters as well as other resources available on the Departments Intranet.

In our opinion, appropriate procedural guidance is available to assist TLS – Prairie Region administrative resources with their duties.

3.8 Administration of Financial Resources

The administration of financial resources in the TLS – Prairie Region is appropriate.

The successful management and administration of financial resources within an organization is an essential responsibility of senior management.

The TLS – Prairie Region works collaboratively with Regional Corporate Services in monitoring and administering the TLS – Prairie Region's financial resources and ensuring compliance with financial policies and procedures.

A Regional Corporate Services financial officer stated that TLS – Prairie Region senior management regularly review the financial reports that Regional Corporate Services produces and that TLS management are actively involved in monitoring and administration their financial resources.

The audit team found that the TLS – Prairie Region communicates regularly with the Portfolio Business Management Section with respect to financial resource allocations to the TLS – Prairie Region. The TLS – Prairie Regional Director indicated that she is satisfied with the most recent level and timing of initial resource allocations received from the TLS Portfolio. Senior management also advised the audit team that they are continually well informed regarding their final budget allocations.

In our opinion, the financial administration of resources in the TLS – Prairie Region is appropriate.

Administrative assistants in the TLS – Prairie Region need the capability to view IFMS reports from their workstations.

A financial officer in Regional Corporate Services produces SAP reports on a monthly basis to provide TLS – Prairie Region senior management with a financial overview of the cost centres in the TLS – Prairie Region. Data in the reports are secured through system-generated security measures. Access to the reports is based on the file permissions granted.

Through our interviews and documentation review, we found that TLS – Prairie Region administrative assistants regularly review expenses that are processed through the cost centres. This review helps ensure the accuracy of accounts being used for expense allocation and validates expenditures that originate within the TLS – Prairie Section. However, administrative assistants cannot produce financial reports on demand and must rely on the monthly SAP reports produced by Regional Corporate Services. Since administrative assistants cannot access these reports from their workstations, they must either request the reports from Regional Corporate Services or conduct their reviews on a monthly basis. As a result, when senior management require information from these reports, administrative assistants are unable to access the information in an efficient and timely manner.

It is our opinion that administrative assistants within the TLS – Prairie Region should be given the capability to view IFMS reports from their workstations in order to provide the necessary timely information to TLS – Prairie Region management.

Recommendation and Management Response

3.   It is recommended that the Regional Director, TLS – Prairie Region, in conjunction with the Information Management Branch, ensure that administrative assistants are given the capability to view IFMS reports from their workstations. (Low Risk)

        Agreed. The Director will ensure that administrative assistants are given capability to review IFMS reports from their workstations, along with any necessary training. Completion Date: December 31, 2011.

3.9   Control and Protection of Key Assets

Control and protection of key assets within the TLS – Prairie Region isadequate.

The proper control and protection over key assets used in a business operation is an essential aspect of management activity. Adequate measures to help mitigate the chances of assets being damaged or stolen should be operating effectively and these measures should be reviewed regularly to help sustain their efficiency and relevancy.

We held consultations with key management and staff within the TLS – Prairie Region and the TLS Portfolio Office. We reviewed relevant documentation including procedural manuals related

to the security of assets on the Department's Intranet and performed a walkthrough of the iCase information management tool. (For details on iCase, see Information Systems section.)

The audit team visited the Edmonton and the Winnipeg offices, which are the largest Prairie Region offices. The audit team found that physical access to both Edmonton and Winnipeg office buildings is restricted. Individuals are permitted entry into the buildings only with a valid security building pass issued by the Department. All visitors without a building pass must be escorted by an authorized departmental resource.

The security of client information within both the Edmonton and Winnipeg offices is controlled and maintained via computer password protection and locked physical filing cabinets. Each computer workstation is only accessible if the user has a password that is in compliance with security standards. We found that access to iCase legal files is only granted to TLS personnel who are directly associated with the file. We were told that each TLS office is responsible for establishing its own protection procedures for physical assets. These procedures are established in accordance with the recommendations and guidance provided by the Department's Accommodations Directorate.

Assets are acquired centrally and, upon initial receipt, the TLS – Prairie Region attaches an identification "tracking sticker" and records the pertinent information in a centralized inventory database. This is used to verify the assets in an employee's possession on leaving the section.

In our opinion, the TLS – Prairie Region has appropriate processes and procedures in place to maintain proper control and protection over departmental assets.

4. OBSERVATIONS – INFORMATION SYSTEMS

4.1 Reliability of Information Systems for Decision Making

TLS – Prairie Region personnel stated that the Fiscal Path search function is not user-friendly.

Information systems are essential tools in an organization's decision-making process. In-house systems should be developed in such a way that they facilitate the decision-making process and provide current and consistent information to users. They must also be user-friendly and provide relevant, timely, and accurate information.

Fiscal Path is an information system developed in-house specifically for the TLS Portfolio. The system is linked to the departmental information system known as GASPARD, which is a comprehensive knowledge management system maintained by the Department for all sectors. Fiscal Path is intended to be a knowledge management tool for TLS. The National Training Coordinator, based in Montreal, is responsible for updating and maintaining Fiscal Path, responsibilities which were assigned to the position approximately three years ago. According to the National Training Coordinator, Fiscal Path has been in existence for several years but has not received appropriate maintenance to keep the system relevant and useful for TLS legal counsel. In an effort to increase the system's usefulness, relevance, and accuracy, the TLS Portfolio has established an Editorial Board with a representative in each TLS regional section to assist the National Training Coordinator in populating the system with data. An administrative assistant in Montreal inputs the data and the National Training Coordinator oversees and monitors the information entered into the system.

The majority of TLS – Prairie Region management and staff indicated that Fiscal Path is not user friendly, as the search function is not reliable. Searches often result in few and/or irrelevant results. The weakness of the search function is the primary reason TLS personnel use more dependable databases/sources such as *CanLII* to obtain necessary legal information for decision making.

TLS – Prairie Region personnel indicated that they were aware that Fiscal Path is intended to become the central information system for searching and maintaining past legal factums, court rulings, and other TLS case information. The audit team found that Fiscal Path does not currently operate in this manner. Legal staff indicated that they use Fiscal Path for basic administrative purposes such as linking to the TLS phone directory, linking to other relevant Canadian law Web sites, and accessing historical "webinar/training" sessions and materials.

In order for Fiscal Path to become the main source of information for decision-making purposes, improvements to its search functionality will be required.

Recommendation and Management Response

4.   It is recommended that the Regional Director, TLS – Prairie Region, in conjunction with the ADAG, TLS Portfolio, determine appropriate options for improving the Fiscal Path search functionality. (Medium Risk)

Agreed. The TLS – Prairie Region will work with the office of the ADAG, TLS Portfolio, which is responsible for the Fiscal Path Intranet site. The Portfolio will also work in close collaboration with the Law Practice Management Directorate, as the knowledge management component of the Fiscal Path is expected to be integrated into *Justipedia*. Completion Date: By the end of the year, at the discretion of the Department's *Justipedia* initiative.

iCase is an effective information management tool for tracking timekeeping information and the progress of legal files in the TLS – Prairie Region.

Accurate and comprehensive timekeeping information is essential for supporting management in their decision-making responsibilities. Reliable and accurate timekeeping records are critical to formulate appropriate decisions as they relate to equitable resource and workload allocation.

Within the TLS – Prairie Region, as with the Department as a whole, it is mandatory for all counsel and paralegals to record their time spent on client files. Each TLS employee is required to record their client time within the iCase system to help ensure iCase data is current. The system is a web-based application and was designed by the Department to improve case management, timekeeping, and the generation of informative management reports. The version of iCase used by TLS – Prairie Region has been modified and customized to the requirements of the TLS Portfolio.

TLS – Prairie Region senior management advised the audit team that the iCase system is a very useful tool for monitoring both file progress and time spent by each resource on client files. Through consultations, review of business manuals, and an iCase system walkthrough with TLS – Portfolio Office personnel, we found that iCase is a comprehensive information system that captures pertinent data related to an employee's daily activities. The system is also used to monitor employees' time spent on tasks other than file work, such as training and administrative duties. Senior management indicated a high level of satisfaction with the iCase system, particularly its broad functionality. iCase generates regular, meaningful reports for TLS – Prairie Region senior management. The TLS – Prairie Regional Director stated that on a monthly basis she reviews iCase reports that identify each individual's billable time and also refers to these reports during the performance evaluation process. The audit team also found that senior management is satisfied with the data retrieved from each report and that iCase reports are useful for identifying trends and making decisions based on these trends.

We found that the iCase system is a valuable information management tool. Its functionality is robust and allows TLS – Prairie Region management to effectively monitor workload, identify trends, and oversee employee timekeeping records.

5. COMPLIANCE WITH KEY LEGISLATION

5.1 Compliance with Key Legislation

TLS – Prairie Region is in compliance with key legislation and policies.

Appropriate measures should be put in place by management to help ensure compliance with key legislation and associated policies.

Through our consultations with senior management in both the TLS – Prairie Region and management in the Portfolio Business Management Section, the audit team determined that the TLS – Prairie Region is subject to random Portfolio compliance reviews, which help ensure compliance is being maintained. For example, with respect to financial transactions and their compliance with the *Financial Administration Act,* senior management perform random spot checks and sample evaluations to verify if transactions have been processed correctly and if the appropriate approvals have been obtained to support each transaction. TLS – Prairie Region personnel also rely on the assistance provided by Regional Corporate Services to help ensure financial transactions are in compliance with the legislation.

The audit team also determined that TLS – Prairie Region personnel depend on the guidance and direction from the Portfolio Business Management Section for advice on the *Official Languages Act*, Government Contracting Regulations, and other related policies and procedures.

In our opinion, appropriate measures exist to help monitor and maintain compliance with the key legislative documents and related policies in the TLS – Prairie Region.

6. OBSERVATIONS – RISK AND LEGAL FILE MANAGEMENT

6.1 Risk Management

File risk management in the TLS – Prairie Region is appropriate.

Identifying and managing risk is crucial for the successful completion of legal case work. Early recognition of file risk, evaluating its potential effects, and formulating mitigation strategies help enable legal professionals to ensure successful completion of files.

The Associate ADAG (Tax Assessment), TLS Portfolio receives notices of appeals directly from the Tax Court of Canada and is responsible for providing an initial risk level and complexity level to the file and then assigning the file to a TLS regional office. This initial rating determination by the Associate ADAG assists in maintaining a level of uniformity in the risk rating process across the Portfolio.

Once a file is allocated to the TLS regional office, the TLS – Prairie Regional Director holds regularly scheduled meetings (twice weekly) with the Deputy Regional Director and team leaders to determine which legal counsel should be assigned to each file. The assignment of large complex files often involves direct consultation with the senior counsel cadre. These meetings focus on the general procedure files, but will also address informal procedure files. Informal procedure files, originating from the Alberta region, are generally allocated to junior lawyers. These files are assigned by the TLS – Prairie Region Deputy Regional Director who receives them directly from the CRA and assigns the files accordingly. The TLS – Prairie Regional Director and Deputy Regional Director assign general procedure files received from the ADAG's office at the weekly meetings.

The audit team determined that files allocated to the Winnipeg office from the TLS – Prairie Regional Director are initially assessed by the Director (Acting). The Director (Acting) stated he allocates files based on his knowledge of his legal counsel's experience, abilities, and capacity to

take on new files. The Director (Acting) further stated that he considers the training/development needs of his staff during his decision making process for file assignment.

All files are given a risk rating of high, medium, or low as it relates to the potential success of the case. Potential client impact for each file is set at minor, medium, or significant. Once the risk and impact levels are confirmed and the file is assigned to counsel, the case is entered into iCase, which will automatically assign a numeric risk value based on a scale from one to nine. Consultation between the TLS – Prairie Regional Director and the Prairie Region's General Counsel Cadre Legal Risk Management (LRM) subcommittee must take place in regard to all files that are ascribed a risk level of six, seven, eight, or nine. The subcommittee provides advice on, among other things, risk level assessments, resource queries, contingency planning, early warning notes, and legal positions. Throughout the life cycle of each TLS file, legal counsel are required to monitor the factors impacting the initial risk levels and re-evaluate the overall risk on a continual basis. In our walkthrough of the iCase system, the audit team verified that the iCase file risk rating and impact assessment process was operating as intended.

From our interviews with TLS – Prairie Region personnel and CRA senior management and our documentation review, the audit team found that file risk management is well addressed by TLS – Prairie Region personnel through regularly scheduled meetings with CRA and ongoing informal discussions. The information gathered from these meetings and informal discussions are rolled up by CRA Prairie Region personnel into quarterly reports provided to CRA headquarters located in the National Capital Region. The TLS – Prairie Region continually monitors and reviews litigation risk reports with CRA and holds quarterly meetings with CRA to review high-risk files. The audit team was also advised that the TLS - Prairie Regional Director is responsible for managing the risk associated with each file assigned to it. However, TLS Portfolio Office guidance or assistance is available if required to mitigate certain risks. CRA also advised us that they are involved in developing any proposed mitigation strategy that TLS decides to implement on a case-by-case basis.

We determined that the TLS – Prairie region has an appropriate process in place for identifying, evaluating, and monitoring risk.

6.2 Legal File Management

Management and administration of legal files in the TLS – Prairie Region is appropriate and managed in accordance with government and Department policies.

The management and administration of client legal files is fundamental to successfully operate in a legal environment. Appropriate file management allows for effective and efficient responses to client requirements and permits legal counsel to prevail in court proceedings.

The central file management system used for casework in the TLS – Prairie Region is the iCase information system. Departmental standards require that all files dealing with TLS be entered into the iCase system with specific data input fields populated as outlined within the *iCase National Business Standards Manual.* There are common standards required for all portfolios within the Department and additional standards are tailored to each portfolio's specific requirements. Senior management update and customize standards when they determine a need for standardization improvement. Senior management also ensure that policy manuals are revised as appropriate. These customized standards help ensure consistency across the TLS Portfolio and allow management to produce comparable reports from the various regional TLS sections across the country.

In accordance with Department *iCase National Business Standards Manual*, all new legal files are required to be entered into iCase within one week of receiving initial documentation. To ensure cases are entered in the system, periodic iCase reports are produced by the iCase Administration group with results provided to senior management. TLS – Prairie Region senior management review these reports and compare the reports entered into iCase with those allocated to the section to ensure that all cases are appropriately entered into the system.

Counsel and management advised that files are well managed in iCase and administered appropriately in the TLS – Prairie Region. The audit team performed a high-level walkthrough of iCase with the Associate ADAG. We observed an appropriate audit trail including management sign-offs and corresponding dates to support the sound management of client files. Through our interviews with CRA personnel and our walkthrough of iCase, the audit team verified that filing deadlines are respected and legal files appropriately managed.

CRA senior management advised the audit team that CRA is satisfied with TLS – Prairie Region's management of legal files. CRA senior managers indicated that TLS legal counsel are

passionate about their work and consistently exceed CRA expectations in terms of managing legal files and providing legal services.

In our opinion, the TLS – Prairie Region has appropriate measures in place to manage and administer legal files and the mechanisms in place are operating appropriately.

6.3   Forecasting of Demand for Legal Services

The TLS – Prairie Region appropriately forecasts demand for legal work.

Forecasting the demand of future workloads is vital to the effective management of legal operations.

Senior management in the TLS – Prairie Region stated that forecasting demand for future tax work is difficult as tax law services are generally reactive. The audit found that there is no formal forecasting process in place in the Prairie Region to address future work demands. The TLS – Prairie Regional Director stated that information relating to future work is generally obtained through the numerous meetings held between TLS and CRA management.

Through our interviews with TLS – Prairie Region management and CRA personnel in both the Prairie Region and the National Capital Region, we found that the TLS – Prairie Region attempts to establish future demand for legal service to the extent possible. CRA staff and the TLS – Prairie Region have regular formal meetings to discuss current and future tax work (e.g. appeals to recent court decisions, new tax legislature, and current case files). Informal communication also takes place by telephone and email. TLS – Prairie Region senior management confirmed that CRA regularly and consistently keeps the Prairie Region aware of upcoming files and discusses the file risk and complexity levels of new cases.

In our opinion, the TLS – Prairie Region appropriately and effectively manages future demand for legal services.

7. OBSERVATIONS – INTERFACES WITH OTHER JUSTICE SECTORS AND CLIENT DEPARTMENTS

7.1 Other Justice Sectors

Interfaces with other Department of Justice Sectors are appropriate.

In an organization, strong and effective business relations between functioning units help contribute to an efficient and cohesive operation. Dynamic interfaces allow managers throughout an organization to be kept well informed as to the current events impacting each unit and help facilitate the sharing of ideas, expertise and best practices.

We found that the TLS – Prairie Region maintains open communication channels with other portfolios in the Department. Formal channels of communication are used with other portfolios when tax issues impact other areas of the Canadian legal system such as human rights and aboriginal affairs. The TLS – Prairie Regional Director stated that the deputy regional directors from all portfolios within the Prairie Region meet once a month to discuss operational issues within their area of responsibility. The TLS – Prairie Regional Director also participates in the Prairie Management Team (PMT) teleconference meeting every Monday, which includes representation from all portfolios in the Prairie Region. The Acting RDG stated that TLS – Prairie Region's communications with other sectors of the Department is appropriate. He further stated that there are strong litigators within TLS – Prairie Region who are sharing litigating techniques and best practices with other sectors. This is a good practice he hopes to see continue.

The audit team also found that TLS – Prairie Region management use informal channels of communication with other portfolios in the Prairie Region, most often to discuss administrative matters such as human resources and funding.

It is our opinion that the TLS – Prairie Region has appropriate interfaces with other Department of Justice sectors.

7.2   Client Departments

Interfaces with the Canada Revenue Agency are appropriate.

Strong client relationships are built on a foundation of effective communication. Positive interfaces with clients allows for the efficient sharing of information between parties, enabling appropriate and timely action to be taken.

From our interviews with both TLS – Prairie Region and Portfolio Office personnel, as well as CRA personnel in the Prairie Region and the National Capital Region, we found that there is ongoing, continuous communication through formal and informal channels with CRA. The TLS – Prairie Region and the CRA have a joint Risk Management Committee that meets quarterly to discuss risk-related items with respect to ongoing and new files. Meetings occur more frequently when workload demands it. A pre-risk meeting is scheduled with CRA to track new cases as they come in. The TLS – Prairie Regional Director meets with CRA every six to eight weeks to discuss ongoing case matters and any issues that may exist. The Director (Acting) regularly speaks with CRA management in the Prairie Region and meets in person with CRA at least twice a year. Both TLS – Prairie Region senior management and CRA personnel stated that ad hoc meetings also take place whenever they are needed and that both parties use the phone or email to seek guidance/information whenever it is required.

We found that the number of meetings and committees in place, each with its own specific purpose, objectives, and expected outcomes, have increased efficient communications and effective direction in the normal day-to-day course of business.

8.   OBSERVATIONS – CLIENT SATISFACTION

8.1   Level of client satisfaction with the services provided.

The Canada Revenue Agency is satisfied with the TLS – Prairie Region's level of service.

Client satisfaction levels are a direct result of the quality of service clients receive from a service provider. Open communication, reliability, and positive past experiences are key indicators of high client satisfaction levels.

During our consultation with CRA senior management in the TLS – Prairie Region and in the National Capital Region, we found that TLS – Prairie Region senior management are in continuous communication with the client regarding current and future workloads. Both TLS – Prairie Region senior management and CRA client representatives stated that the quality of communications between the two organizations is exceptional with respect to addressing file risk management and legal decisions. We found that TLS – Prairie Region senior management keep CRA well informed as to the progress of each file, and that issues are addressed in a timely and efficient manner. There are regular and ongoing meetings throughout the year between CRA and TLS – Prairie Region where all pertinent matters are discussed. CRA senior management advised the audit team that court-appointed deadlines are always met and that TLS – Prairie Region legal counsel are extremely efficient.

We reviewed the Department of Justice Canada Client Feedback Survey – Tax Law Services Portfolio Results 2008. We found that the overall satisfaction level of the CRA was 87%. This performance indicator was supported by comments we received from CRA senior management and regional personnel that indicated that TLS service standards are always met and often exceeded. Although the 2008 client survey was specifically in response to the TLS Portfolio Office service levels, the feedback included service levels across the Portfolio including the TLS – Prairie Region. Client management also specified that CRA input is always incorporated as the file progresses through the court process and that all CRA files are addressed with due diligence, dedication, and top quality care.

In our opinion, CRA is satisfied with the level of service being provided by TLS – Prairie Region.

9.   RECOMMENDATIONS AND MANAGEMENT RESPONSES

1. **It is recommended that the Regional Director, TLS – Prairie Region ensure that a formal TLS succession plan is developed and updated on a regular basis. (Medium Risk)**

    Agreed. The TLS – Prairie Region will work in close collaboration with the office of the ADAG, TLS Portfolio to develop and implement a national succession plan. Completion date: In conjunction with the TLS – Prairie Region, TLS – Ottawa Section, and TLS regional offices, the TLS Portfolio will develop a national succession plan by the end of this fiscal year. This plan will be updated on a regular basis.

2. **It is recommended that the Regional Director, TLS – Prairie Region conduct an organizational review to determine the appropriate number of senior counsel for the Winnipeg office. (Medium Risk)**

    Agreed. The Regional Director, TLS – Prairie Region has already conducted an organizational review of the allocation of senior counsel in all of the TLS Prairie Region offices in conjunction with a Senior Counsel Capacity Analysis. It is recognized that there is a "gap" in the senior counsel complement in Winnipeg – this "gap" has been created by the recent departures of senior counsel from Winnipeg, TLS. The constraints of the Law Practice Model have precluded TLS from being able to offer senior counsel positions in Winnipeg, TLS. That said, a number of initiatives were implemented last year to address the "gap" and to streamline and regionalize our work, increase efficiencies, and break down provincial barriers. Completion Date: January 2011.

Agreed. The Director will ensure that administrative assistants are given capability to review IFMS reports from their workstations, along with any necessary training. Completion Date: December 31, 2011.

Agreed. The TLS – Prairie Region will work with the office of the ADAG, TLS Portfolio, which is responsible for the Fiscal Path Intranet site. The Portfolio will also work in close collaboration with the Law Practice Management Directorate, as the knowledge management component of the Fiscal Path is expected to be integrated into *Justipedia*. Completion Date: By the end of the year, at the discretion of the Department's *Justipedia* initiative.

APPENDIX A – AUDIT METHODOLOGY

The criteria for the audit were based on guidance from the Committee of Sponsoring Organizations (COSO) Entity Level Control Framework, the TBS Core Management Control Framework, the TBS Management Accountability Framework, and other TBS guidance on auditing management frameworks.

The methodology consisted of a review of pertinent documentation, systems, practices and procedures; and interviews with appropriate Department of Justice, client personnel and other stakeholders.

In conducting this audit, the audit team:

- interviewed the following:
    - Assistant Deputy Attorney General, TLS Portfolio
    - Associate Assistant Deputy Attorney General,
      Tax Assessment Matters
    - Associate Assistant Deputy Attorney General,
      Collections and Civil Matters
    - management and staff, TLS – Prairie Region
    - other Department of Justice staff
    - CRA management

- reviewed the following documents:
    - business plans
    - client Memorandum of Understanding
    - Terms of Reference
    - management presentations
    - reports and submissions
    - meeting agendas and minutes
    - learning plans
    - performance reviews

- job descriptions
- procedure manuals and user guides
- Department of Justice and Treasury Board Secretariat policies
- client surveys
- client consultations related to business plans
- civil litigation presentation to client
- client training course offerings

The audit was undertaken in a manner consistent with the Treasury Board *Policy on Internal Audit* and related guidelines and procedures, and with generally accepted auditing standards.

APPENDIX B – RISK ASSESSMENT GUIDELINES FOR AUDIT RECOMMENDATIONS

Examples of criteria used for assessing the risk level of audit recommendations are outlined below:

Assessment	Criteria
High	• **Controls** are not in place or are inadequate. • **Compliance** with legislation and regulations is inadequate. • Important **issues** are identified that impact the achievement of program/operational objectives.
Medium	• **Controls** are in place but are not being sufficiently complied with. • **Compliance** with central agency/departmental policies and established procedures is inadequate. • **Issues** are identified that impact the efficiency and effectiveness of operations
Low	• **Controls** are in place but the level of compliance varies. • **Compliance** with central agency/departmental policies and established procedures varies. • **Opportunities** are identified that could enhance operations.

It should be noted that, in applying the above criteria to a recommendation, Internal Audit Branch takes into consideration the nature, scope, and significance of the audit finding(s), the impact of the recommendation on the organization, and the auditors' professional judgment.