OFFICE OF THE
AUDITOR GENERAL
MANITOBA

Civil Service Commission
Department of Finance
Department of Infrastructure and Transportation

Manitoba's Framework for an Ethical Environment

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Main points

What we found

Ethics, at its simplest, can be defined in an organizational context as understanding what is right and what is wrong, and then doing what is right. The ethical culture of a workplace (which is not just formal policy statements, but includes the informal unwritten standards of behaviour) communicates what is acceptable behaviour, how employees ought to treat others, the importance of complying with internal policies and safeguards, whether questioning authority is acceptable, and whether it is safe to report observed misconduct. As it is difficult for organizations to write rules for every situation, having a strong ethical culture is essential to creating a workplace where the focus is on doing what is right.

A well-constructed values and ethics program or framework is a key element in ensuring a strong ethical environment within the public service. We focused on the framework put in place by Manitoba's Civil Service Commission (CSC) and examined:

1. Whether policies and guidelines, with specified standards and procedures, are in place to foster an ethical environment within the public service.
2. Whether the policies and guidelines are clearly communicated to all civil servants, with ongoing education and training.
3. Whether the policies are being monitored to ensure implementation across all government departments.
4. Whether systems are in place to identify, mitigate and report any incidents of an ethical/fraudulent nature which may arise.
5. Whether the policies and guidelines are reviewed and updated periodically.

In order to obtain a comprehensive understanding of the ethical climate within the civil service, we reviewed the ethics-related policies, procedures and training programs currently in place. We also obtained the perspectives and opinions of all Deputy Ministers on the implementation of ethical policies and practices within their departments, as well as the challenges faced within their specific context. And we conducted an internet-based ethics survey of employees within the 18 core government departments to obtain their perceptions of ethics in their workplaces and whether they feel supported in maintaining ethical standards. We utilized an external research firm to administer and analyze the employee survey in order to assure respondents of their anonymity and confidentiality. We greatly appreciate the thoughtful commentary and valuable input provided by the nearly 5000 employees across all 18 departments who provided responses to our survey.

Ethics is a critically important issue that civil servants care about, and recognize the importance of. The high response rate from department employees to our ethics survey is indicative that this is a topic of deep interest and concern to civil servants striving to do a good job and provide quality service to Manitobans.

- *94% of survey respondents perceive ethics and integrity as critical issues in the public sector, and an important part of fulfilling their work as a public servant.*

A variety of central policies are currently in place that assist in fostering an ethical environment. The Values and Ethics Guide, introduced in 2007 as part of the Civil Service Renewal Strategy, was the first government-wide document specifically establishing the overall corporate values and ethical expectations of all civil servants. We found that the communication and training efforts in ethics-related matters by the CSC need to be enhanced. Ethics training is of significant corporate value because it assists managers and employees in understanding, demonstrating and maintaining required ethical standards. A one-day workshop covering a variety of ethics-related topics has only recently been developed by the CSC.

The Conflict of Interest Policy was put in place in 1984 and revised in 2007 as part of the Civil Service Renewal Strategy. We found that the policy and procedures need to be enhanced, as does training on conflict of interest issues. It is especially important that senior management be trained, not only to ensure consistent understanding of ethics-related requirements, but how to appropriately assess and deal with issues brought to their attention. Our survey of department employees indicated that conflict of interest situations are perceived to be the third most likely type of ethical misconduct to occur in the workplace.

Conflict of interest declarations by employees are an important activity for ensuring conflict situations are communicated and properly managed. Conflict of interest declarations are required at hire for all staff and annually for only Deputy Ministers and Assistant Deputy Ministers. From the sample of personnel files we examined, we found that many required declarations are not in place.

The Fraud Prevention and Reporting Policy was implemented in 1996, however we found that its purpose is not well understood. Studies show that fraud occurs in all workplaces, and that it is most likely to be detected by tips from employees than by any other method. Hence, having employees who can recognize fraud is a valuable asset that may significantly reduce the incidence of fraud in the workplace. However, fraud awareness training is not provided. Our survey of department employees noted that 34% of respondents would like to receive training on fraud awareness and identification of risk within their department.

Monitoring efforts by the CSC and departments on the implementation of ethical policies across government needs more focused attention. In addition, the systems in place to identify, mitigate and report ethical issues require improvement. It is critical to create a safe environment for employees to report instances of ethical misconduct or fraudulent activity. Our survey of department employees indicated that a third of respondents are personally aware of ethical misconduct or fraudulent activity within their workplace, yet only half of these instances have been reported to management. There is currently no formal process in place for employees to anonymously report concerns of ethical misconduct or fraudulent activity. Our report discusses both ethical misconduct and fraudulent activity, and it is important to note the distinction between these two concepts. Ethical misconduct encompasses a wide array of inappropriate behaviours in the workplace, including acts of fraud. Fraudulent activity is more specific to actions that result in a personal benefit or gain, which may or may not be of a monetary nature.

There has been limited use of *The Public Interest Disclosure (Whistleblower Protection) Act* by employees. Our survey indicated that many employees do not know who their department's Designated Officer is and that less than a third of respondents felt confident that they would be protected from reprisals if they reported an issue under the Act.

Ensuring employees are made aware of the consequences for violating ethical standards is a key deterrent to fraud in the workplace. Little information is communicated by the CSC or departments on ethics-related investigations conducted, nor on enforcement actions taken. The overall number of investigations and outcomes could be reported at a department level, in a manner that does not compromise individual confidentiality. Our survey of department employees indicates that only about half of respondents perceive that those who violate ethical standards will be subject to appropriate consequences.

The effectiveness of the ethics-related policies has not been assessed and updated since their implementation. Our survey of department employees found that just over half of respondents believe that the current policies are working effectively, and only half of respondents reported that their workplace always makes decisions consistent with the values and ethics policies.

We believe a proactive approach is required to instill a strong ethics program throughout the civil service. Especially in times of fiscal restraint, ensuring that the corporate values and ethics are embedded within the workplace culture helps to foster and maintain an ethical environment throughout government. This is a critical function that deserves focused attention by the CSC, and by senior leadership in departments.

Why it matters

Public sector organizations are in a position of trust, and must reflect a commitment to upholding the public's trust in the organization and to using public funds in an appropriate and transparent manner. The nature of the public service demands that civil servants consistently maintain the highest possible standards of ethical behaviour. A strong ethical framework in government ensures that the corporate culture of the civil service fosters ethical behaviour in all employees, recognizes and avoids potential conflicts of interests, and that the risks of loss due to fraud are mitigated. Strong ethical frameworks contribute to the public maintaining confidence and trust in the institutions of government, and being assured there is good value and probity in the expenditure of taxpayer dollars.

Ethics and the increased focus on ethical conduct in politics, business, and society around the world is becoming one of the defining business issues of our era. Ethical lapses are currently making almost daily headlines in Canada. The corporate scandals that have washed over both the public and private sectors in recent years share the root cause of lapses in ethical judgement and execution. Higher ethical expectations are being placed on every sector of society; and the public sector has certainly not been immune to ethical criticisms. In Manitoba, we have conducted recent audits that speak to these types of ethical issues, including in this report, Chapter 9 dealing with procurement cards at Manitoba Infrastructure and Transportation; and from our 2013 report, Chapter 6 on the Office of the Fire Commissioner and Chapter 7 on the Provincial Nominee Program for Business. Conflict of interest issues have also been raised in many of our past reports.

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Audit approach

A well-constructed values and ethics program or framework is a key element in ensuring a strong ethical environment within the public service. We focused on the framework put in place by Manitoba's Civil Service Commission (CSC) and examined:

1. Whether policies and guidelines, with specified standards and procedures, are in place to foster an ethical environment within the public service.

2. Whether the policies and guidelines are clearly communicated to all civil servants, with ongoing education and training.

3. Whether the policies are being monitored to ensure implementation across all government departments.

4. Whether systems are in place to identify, mitigate and report any incidents of an ethical/fraudulent nature which may arise.

5. Whether the policies and guidelines are reviewed and updated periodically.

Our field work was substantially completed by December 2013. Our examination was performed in accordance with the value-for-money auditing standards recommended by the Canadian Institute of Chartered Accountants, and accordingly, included such tests and other procedures as we considered necessary in the circumstances.

We conducted a literature review of leading practices research on ethics, fraud and conflict of interest. Leading practices for an effective ethics program suggest a number of key elements that must be in place to ensure a strong ethical framework throughout an organization. Our audit criteria are based on the Institute of Internal Auditors' IPPF Practice Guide for evaluating ethics-related programs[1] and Best Practices: Evaluating the Corporate Culture[2]. We also drew upon the OECD's Principles for Managing Ethics in the Public Sector[3]; and the US Federal Sentencing Guidelines for Organizations, Chapter 8, Section B2.1 on effective compliance and ethics programs.[4] **Appendix F** provides a bibliography of these and other key references informing this audit.

> The Organization for Economic Co-operation and Development (OECD) has outlined the following international principles for managing ethics in the public service:
> - Ethical standards for public service should be clear.
> - Ethical standards should be reflected in the legal framework.
> - Ethical guidance should be available to public servants.
> - Public servants should know their rights and obligations when exposing wrongdoing.
> - Political commitment to ethics should reinforce ethical conduct of public servants.
> - The decision-making process should be transparent and open to scrutiny.
> - Managers should demonstrate and promote ethical conduct.
> - Management policies, procedures and practices should promote ethical conduct
> - Public service conditions and management of Human Resources should promote ethical conduct.
> - Adequate accountability mechanisms should be in place within the public service.
> - Appropriate procedures and sanctions should exist to deal with misconduct.

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[1] Institute of Internal Auditors (IIA), <u>Evaluating Ethics-Related Programs and Activities</u>, IPPF Practice Guide, June 2012**.** www.theiia.org

[2] Roth, James, Best Practices: <u>Evaluating the Corporate Culture</u>, IIA Research Foundation, 2010. www.theiia.org

[3] Organization for Economic Cooperation and Development (OECD), <u>Recommendation on Improving Ethical Conduct in the Public Service including Principles for Managing Ethics in the Public Service</u>, 1998**.** www.oecd.org/gov/ethics

[4] United States Sentencing Commission, <u>2012 Federal Sentencing Guidelines Manual</u>, Chapter 8, §B2.1 *Effective Compliance and Ethics Programs*, November 2012. www.ussc.gov/Guidelines

In conducting our audit, we reviewed a variety of documentation, including legislation, policy and procedure documents, reports, training programs, and correspondence, as well as held numerous discussions with CSC management and staff. We were also provided information from the ethics programs in place at two Crown corporations and a Regional Health Authority.

In order to develop a comprehensive understanding of the ethical climate within the civil service, we obtained the perspectives and opinions of Deputy Ministers, as well as those of employees. Focused interviews were held with all Deputy Ministers and the senior officials they invited to discuss the implementation of ethical policies and practices within their departments, as well as any challenges faced in implementing the ethics-related policies within their specific context.

We also conducted an internet-based workplace ethics survey of employees within the 18 core government departments who have an email address @gov.mb.ca**.** We utilized an external research firm to administer and analyze the employee survey in order to assure respondents of their anonymity and confidentiality. **Appendix E** provides a full discussion of survey methodology and complete results from all questions on the survey.

Nearly 5000 employees (33%) across all 18 departments provided responses to our survey. We greatly appreciate this high response rate and the interest taken by respondents to our survey. Many survey respondents provided extensive comments and perspectives about ethics-related topics, and we sincerely appreciate the thoughtful commentary and valuable input provided. We remind all employees that if they have a specific concern they wish to discuss with our office, please call our Citizen Contact line at 204-945-3351 or email us at: citizens.concerns@oag.mb.ca**.**

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Background

Ethics and the increased focus on ethical conduct in politics, business, and society around the world is becoming one of the defining business issues of our era. Ethical lapses are currently making almost daily headlines in Canada. The corporate scandals that have washed over both the public and private sectors in recent years share the root cause of lapses in ethical judgement and execution. Higher ethical expectations are being placed on every sector of society; and the public sector has certainly not been immune to ethical criticisms. In Manitoba, the OAG has conducted recent audits that speak to these types of ethical issues, including: Chapter 9 in this report dealing with procurement cards at Manitoba Infrastructure and Transportation; and in our 2013 report, Chapter 6 on expense accounts at the Office of the Fire Commissioner and Chapter 7 on the Provincial Nominee Program.

In a public sector environment, the ethical standards placed upon civil servants are unavoidably high. Public sector organizations are in a position of trust, and public servants must adhere to high ethical standards. Ethical values, especially in a public sector context, must reflect a commitment to upholding the public's trust in the organization and to the use of public funds in an appropriate and transparent manner. Such high ethical standards affect many aspects of the public sector, from rules and operating procedures which reflect higher levels of control than required in the private sector, to policies and practices which reflect societal values and social responsibility standards, such as progressive sustainable environmental practices and appropriate human resource policies.

A strong ethical framework in government ensures that the corporate culture of the civil service fosters ethical behaviour in all employees, recognizes and avoids potential conflicts of interests, and mitigates the risks of loss due to fraud. A strong ethical framework contributes to maintaining public confidence and trust in the institutions of government, and assuring there is good value and probity in the expenditure of taxpayer dollars.

Values and ethics

Values are the shared set of fundamental beliefs, attitudes and principles which help set the tone and corporate culture of an organization, and provide the criteria against which to make decisions and judgments in order to fulfil the organization's mission and mandate. The development of shared values becomes an integral part of an organization's workplace culture.

> Values and ethics represent what most of us put into practice through our actions every day. They describe the way we strive to work with our fellow employees, our partners and our clients. They explain the spirit that enables us to do our jobs. Our values, what seems desirable to us, what is important to us, what we esteem and seek to achieve, are thus reflected in what we do every day… That is why it is important to understand that values and ethics provide a framework for decision making and leadership.
>
> **Office of Public Sector Values and Ethics,
> Government of Canada**

Ethics, at its simplest, can be defined in an organizational context as understanding what is right and what is wrong, and then doing what is right. The ethical culture of a workplace (which is not just formal policy statements, but includes the informal unwritten standards of behaviour) communicates what is acceptable behaviour, how employees ought to treat others, the importance of complying with internal policies and safeguards, whether questioning authority is acceptable, and whether it is safe to report observed

misconduct. As it is difficult for organizations to write rules for every situation, having a strong ethical culture is essential to creating a workplace where the focus is on doing what is right. In the public sector with its complex and challenging social and financial issues, ethics is not always simple and straightforward. Decision-making in the public sector often demands a choice between several alternatives that are neither wholly right nor wholly wrong. Given this, the overarching ethical principles reflected in most policy statements or codes of conduct are important guidance for the daily choices and actions of employees in fulfilling their duties.

> Attention to ethics in the workplace sensitizes leaders and staff to how they should act. Perhaps most important, attention to ethics in the workplace helps ensure that when leaders and managers are struggling in times of crises and confusion, they retain a strong moral compass.
>
> **Complete Guide to Ethics Management (*McNamara*)**

A strong ethics program is intended to: specify the desired ethical values of the organization; ensure greater ethical awareness by employees; clarify the expectations of employees; offer guidance on handling ethical concerns; provide consistency in application; and result in the avoidance of ethical failures and loss due to fraud.

Conflict of interest

In the public sector, it is very important that employees at all levels act, and be perceived to act, in a manner that does not result in any conflict of interest situations. A conflict of interest is a situation in which an individual's personal or professional interests compete with, or may benefit from, the activities of the organization, or when that person utilizes their position to directly or indirectly benefit themselves, friends, or family members. Civil servants should avoid any situation in which there is, or may appear to be, a conflict which could interfere with their ability to fulfill their duties in an impartial manner, or to make decisions in the organization's best interests.

There are three types of conflicts of interest: perceived conflicts; potential conflicts; and actual conflicts. Within the public sector, all three are of concern and must be recognized and dealt with. Actual conflicts of interest must be addressed and actions taken to protect both the individual and organization, and to mitigate any adverse situations. However, the appearance of any perceived or potential conflicts of interest can be just as damaging to a public sector organization as the existence of an actual conflict, as it may create an appearance of impropriety that can undermine public confidence in government. Regardless of the type and extent of the conflict, it is important that those in a conflict of interest situation declare and remove themselves from such situations, or recuse themselves from any discussions or decisions related to the situation.

> Ensuring the integrity of government decision-making is not compromised by public officials' private interests is a growing public concern. New forms of partnership between government and the private and non-profit sectors present new challenges for policy-makers and public managers. …A modern approach to conflict-of-interest policy seeks to strike a balance by: identifying risks; prohibiting unacceptable forms of private interest; raising awareness of the circumstances in which conflicts can arise; and ensuring effective procedures to resolve conflict-of-interest situations.
>
> **Managing Conflict of Interest in the Public Service (*OECD*)**

The onus to declare any type of conflict rests with the individual employee. However, as individuals, one may not always recognize that a conflict is perceived to exist by our colleagues or by external stakeholders. Even if an employee feels they can remain independent and bring an

objective perspective to a situation, it is the responsibility of the employee to consider and identify any potential issues and discuss them with management. Management should err on the side of caution and ensure that mitigating actions are taken to assist the employee in dealing with any type of declared conflict of interest.

A declaration by an employee of any actual or potential conflicts of interest should not be considered negatively. Rather, such declarations provide an opportunity for the employee to act with integrity, transparency, and to demonstrate good faith in having reflected on the potential conflicts. It also allows for the organization to be fully aware of potential issues and if required, for senior management to take a proactive approach to ensure proper mitigating controls and oversight are in place. This helps to lessen any perception of inappropriate or unethical behaviour, which serves to protect not only the interests of the organization, but also the individual employee from any undue suspicion. Most importantly, it assures all internal and external stakeholders, that no inappropriate activity is occurring.

Fraud

While the legal definition of fraud is highly specific, the common usage of the term encompasses many types of workplace misconduct and generally covers any attempt to deceive another party to gain a benefit. In the workplace, fraud can be defined as: *the use of one's occupation for personal enrichment through the deliberate misuse or misapplication of the employing organization's resources or assets*.

All fraudulent acts involve a violation of trust and lapses in ethical judgment. Hence a discussion on an organization's values and ethics inevitably leads to a discussion of fraud in the workplace. It is important to note the distinction between ethical misconduct and fraudulent activity. Ethical misconduct encompasses a wide array of inappropriate behaviours in the workplace, and includes acts of fraud. Fraudulent activity is more specific to actions that result in a personal benefit or gain, which may or may not be of a monetary nature. While theft is the first thing that is often thought of when discussing fraud, there are many other types of fraudulent activities, including those listed below.

Fraud within the workplace generally falls into three categories[5]:

- **Asset misappropriation**: schemes in which employees steal or misuse the organization's resources, such as theft of cash, false billing schemes, or inflated expense accounts.
- **Corruption:** schemes in which employees misuse their influence in a business transaction in a way that violates their duty to the employer in order to gain a direct or indirect benefit.
- **Financial statement fraud**: schemes in which employees intentionally cause a misstatement or omission of material information in the organization's financial reports (for example, recording fictitious revenues, understating reported expenses, or artificially inflating reported assets).

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[5] Association of Certified Fraud Examiners (ACFE), Report to the Nations on Occupational Fraud and Abuse: 2012 Global Fraud Study, 2012. www.acfe.com

The Association of Certified Fraud Examiner's annual Report to the Nations reveals that the nature and threat of fraud is universal and impacts all workplaces; with an estimated 5% of an organization's revenues lost each year due to employee fraud. Their study finds that fraud schemes continue an average of 18 months prior to detection. While it is easy to assume that an employee who commits fraud is a deceitful, greedy or criminal individual by nature, research shows that this is far from the truth. The typical fraudster is most often a trusted, long-term employee, with a clean employment history and good performance record. This incongruity is what often makes fraud so difficult to uncover.

> Many fraudsters work within entities for several years without committing any fraud before an influencing factor – financial worries, job dissatisfaction, aggressive targets, or simply an opportunity to commit fraud – tips the balance….Your 'average' fraudster, based on our analysis, is someone who has worked in an organization for many years, is considered trustworthy, and has a more senior position. …People most entrusted with a company's sensitive information and able to override controls are statistically more likely to become perpetrators.
>
> **Who is the typical fraudster? (*KPMG*)**

Individuals have different psychological needs and therefore different levels at which they will be moved to lie, cheat or steal. Studies show that given the right pressures, opportunities, and rationalizations (known as the Fraud Triangle[6]), a large percentage of employees are capable of committing fraud. Lying, cheating and stealing increase when people are under stress (personal or financial), or under great pressure to achieve specific objectives. Opportunity or the perceived ability to commit fraud is usually a result of weaknesses or overrides in the internal control systems. The easier it is to cheat or steal, the more people will be emboldened to do so. If employees see or perceive other employees to be cheating or stealing in the workplace without repercussions, studies show that this will encourage 66% of employees to do so as well.[7] Rationalization occurs when the individual develops a justification for their fraudulent activities. This varies by case and by individual, but some examples include: "*I need this money now and I'll just pay it back when I get my paycheque"; "Other people are doing it"; "I don't get paid enough for all the work I do so the company owes me.*"
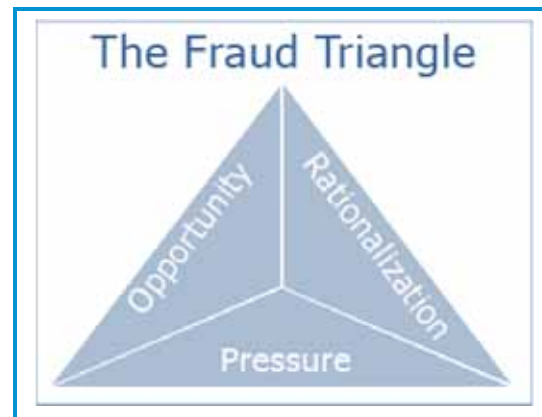
The Fraud Triangle

Removing at least one of the 3 elements in the Fraud Triangle is the key to fraud deterrence. The removal of opportunity through fraud risk mitigation strategies and enhanced internal controls is most often the first step. Ensuring employees are aware of the consequences of violating ethics policies is also a key deterrent to fraud in the workplace. Creating an ethical culture within an organization that does not allow for easy rationalizations to commit fraud is why having a strong ethics program is important.

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[6] http://www.acfe.com/fraud-triangle.aspx   The Fraud Triangle was developed from Donald Cressey's hypothesis that: *Trusted persons become trust violators when they conceive of themselves as having a financial problem which is non-shareable, are aware this problem can be secretly resolved by violation of the position of financial trust, and are able to apply to their own conduct in that situation verbalizations which enable them to adjust their conceptions of themselves as trusted persons with their conceptions of themselves as users of the entrusted funds or property.*

[7] Kessler International, *Study shows 79% of employees steal from their employer,* Press Release, August 1999. www.investigation.com

The Civil Service Commission of Manitoba[8]

Manitoba's Civil Service Commission is the central agency responsible for leading the development, management and delivery of human resource strategies and programs consistent with the provisions of *The Civil Service Act* and regulations. The Civil Service Commission works with Treasury Board Secretariat which is also responsible for some sections of *The Civil Service Act*. This Act provides for the management, direction and administration of human resource management matters within the government. Programs and policies respecting human resource management for the civil service are developed under the provisions of the Act and government policy direction.

The Civil Service Commission (CSC) is responsible for the central policies and guidelines dealing with values and ethics, as well as conflict of interest. CSC is also responsible for the legislative development, implementation and administrative roles for *The Public Interest Disclosure (Whistleblower Protection) Act* across the civil service. CSC policies apply to all government departments, and each of the 15,133 civil service employees.[9] CSC policies do not govern crown corporations, agencies, colleges, or non-governmental organizations. However, these public sector organizations are encouraged to use and adapt the policies to suit their specific organizational needs.

Civil Service Renewal Strategy

The Civil Service Renewal Strategy was announced in 2003 and was designed "*as the means for the government and its departments to keep and attract the talent needed to deliver services. It meant looking at all of the things that make working for the government an important and rewarding career choice, and seeing to it that those things were in place.*"[10] The four goals of the strategy (renewal; sustainability; diversity; and clarity) were to be embedded in all human resource policies, strategies and programs. Within the strategy, a number of initiatives were undertaken by employee project teams and overseen by the Deputy Ministers Advisory Committee on Human Resources. By 2007, the Civil Service Renewal Strategy resulted in a number of policies and initiatives, including the publication of the Values and Ethics Guide, the introduction of the Respectful Workplace Policy, revisions to the Conflict of Interest Policy, and the enactment of *The Public Interest Disclosure (Whistleblower's Protection) Act*.

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[8] From the Civil Service Commission website. www.gov.mb.ca/csc

[9] Manitoba Civil Service Commission Annual Report 2012-2013: This figure includes all active regular, term, technical, departmental, causal, and contract employees appointed under *The Civil Service Act* who work on a full-time or part-time basis. This reflects the total number of active employees on the payroll of the Manitoba government taken as at March 31 of each year.

[10] From the Civil Service Commission intranet site http://gww.internal/csc/renewal.html

Findings and recommendations

Ethics is a critically important issue that civil servants care about, and recognize the importance of. This was abundantly clear from the results of our survey of department employees which found that 94% of survey respondents perceive ethics and integrity as critical issues in the public sector, and an important part of fulfilling their work as a public servant.

1. A variety of policies in place to foster an ethical environment

Leading practices for fostering an ethical environment in the workplace suggest that clear ethical guidance should be provided, with specified policies and guidelines that reinforce the desired ethical standards. Corporate values and ethics statements should clearly specify the expectations of both management and employees, and be reflected in processes and procedures throughout the organization.

Within the Manitoba civil service, a variety of central policies are in place to help foster an ethical environment within the workplace. These include, but are not limited to:

- The Values and Ethics Guide
- The Conflict of Interest Policy
- The Respectful Workplace Policy
- The Sexual Harassment Policy
- The Criminal Charges Policy
- The Reasonable Accommodation Policy
- The Justice & Dignity Policy
- The Preventing Workplace Violence Policy
- The Electronic Network Usage Policy
- The Fraud Prevention and Reporting Policy
- The Workplace Health and Safety Policy

The CSC provides these and other human resource policies on its intranet site in The Principles & Policies for Managing Human Resources manual and guidelines, and the Manager's HR Toolkit. Departments are responsible for implementing CSC policies and ensuring that their systems and practices reflect the ethical policies outlined by CSC. Given the wide nature of the services provided by government, each department needs to look at their exposure to ethical issues within their unique context, and if necessary, develop enhanced policies and procedures that reflect the requirements of their environment.

The various Collective Agreements within the Manitoba civil service also generally have clauses noting employee requirements to observe standards of behaviour consistent with their function and role as a civil servant. As well, some of the key legislation and regulations that contain matters related to workplace behaviour and guidance include:

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- *The Civil Service Act,* and the Regulation respecting Conditions of Employment under *The Civil Service Act.*
- *The Labour Relations Act.*
- *The Employment Standards Act.*
- *The Workplace Safety and Health Act.*
- *The Personal Investigations Act.*
- *The Freedom of Information and Protection of Privacy Act.*
- *The Personal Health Information Act.*
- *The Legislative Assembly and Executive Council Conflict of Interest Act.*

> The Regulation respecting Conditions of Employment under *The Civil Service Act* notes:
>
> **17 (1):** The deputy minister of each department, the heads of branches of a department and the chief officers of agencies of the government are responsible for the conduct of their employees.
>
> **17 (2):** An employee shall observe standards of behaviour consistent with his or her function and role as a civil service employee and the terms and conditions of this regulation and shall observe any oath of office that the employee has taken.

A number of administrative policy manuals speak to the appropriate conduct of government business. These administrative manuals help to ensure consistent and appropriate government practices across all departments, and include policies and procedures designed to control expenditures and prevent fraudulent activity, such as expense account fraud or procurement fraud. These manuals include, but are not limited to:

- **The Financial Administration Manual** (FAM) – Describes the financial management function and its operation within the Manitoba Government.[11]
- **The General Manual of Administration** (GMA) – Comprised of administrative policies, procedures and such other organizational information as is relevant to the administration of the Manitoba Government. [12]
- **The Procurement Administration Manual** (PAM) – Provides direction on procurement policy to all employees and organizations involved in procurement within the Manitoba Government. [13]

For the purposes of this audit, we focused primarily on the Values and Ethics Guide (**Appendix A**), which provides overarching guidance to underpin the desired ethical environment. Two key policies noted within the Values and Ethics Guide are the Conflict of Interest Policy (**Appendix B**) and the Respectful Workplace Policy (**Appendix C**). We chose to focus our review on the Conflict of Interest Policy, as conflict of interest issues have been raised in many of our past audits. We also reviewed the Fraud Prevention and Reporting Policy (**Appendix D**); while not specifically referenced in the Values and Ethics Guide, it speaks to risk management activities designed to identify and prevent fraudulent incidents.

[11]Financial Administration Manual, page 1A-1.0

[12]General Manual of Administration, page 4.

[13]Procurement Administration Manual, page 4.

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1.1 Values and Ethics Guide introduced in 2007; but not a policy or code

An effective ethics program within a workplace requires a policy or code of conduct outlining the corporate values and ethics, and desired ethical behaviours. Employees at all levels of the organization need to understand the desired ethical standards, as well as how to recognize and deal with any ethical issues that may arise. An ethics policy or code should be written in an understandable format, be inviting to read, and be made readily available to all employees.

> A well-written, understandable, and widely disseminated Code is a first step toward creating an ethical culture. …A Code should help employees make ethical decisions, clarify grey areas, and instill trust and commitment to the organization's values….Merely having a Code document is not enough—fulsome and consistent dissemination, education, and enforcement are also essential.
>
> **Developing an Engaging Code of Conduct** (*Falcione*)

The Values and Ethics Guide (**Appendix A**) was introduced in 2007, as one of the deliverables of the Manitoba Civil Service Renewal Strategy. There was no central values and ethics policy or guide in place prior to this time. It was developed to "*provide a guide for conduct by civil servants and support them in their work-related and professional activities, to contribute to maintaining and enhancing public confidence in the civil service, and to strengthen respect for, and appreciation of, the role played by civil servants within Manitoba.*"

The Values and Ethics Guide specifies the 4 core values expected of all civil servants, as follows:

> All civil servants hold a unique position of trust. Our actions, directly or indirectly touch the lives of all Manitobans. Whether providing advice, developing policy or delivering programs or direct services, civil servants will:

- Act in the public interest
- Act with integrity
- Act with respect for others
- Act with skill and dedication

The Values and Ethics Guide applies to all civil service employees as defined by *The Civil Service Act*. It provides links to other legislation, policies and guidelines that further inform civil servants of specific direction in key areas, including the Conflict of Interest Policy and the Respectful Workplace Policy. The Values and Ethics Guide also offers a 5-step model for decision-making when confronted with an ethical dilemma, and specifies that employees are to seek advice before acting if they are unsure. It directs employees to seek such assistance from their manager, Human Resource Services, their Deputy Minister (or specified designate), or the Labour Relations Division of Treasury Board Secretariat.

The authoritative weight of the Values and Ethics Guide would be strengthened by converting it to a policy statement or Code of Conduct. We compared the Value and Ethics Guide to the federal government's recently updated Values and Ethics Code for the Public Sector.[14] We noted

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[14] http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?section=text&id=25049#cha5

a few key differences, including that the federal Values and Ethics Code provides more specific guidance for all levels of the organization, not just employees.

- The Code specifies the requirements of senior management to "*ensure that this Code, their organizational code of conduct, and their internal disclosure procedures are implemented effectively in their organization, and that they are regularly monitored and evaluated.*"
- The Code specifies that the Office of the Chief Human Resources Officer is "*responsible for promoting ethical practices in the public sector*" and to "*monitor the implementation of this Code in organizations with a view to assessing whether the stated objectives have been achieved.*"
- The Code also specifies the obligation of all public servants to bring forward *"any information that could indicate a serious breach of this Code"* under the federal *Public Servants Disclosure Protection Act*.

Our survey of department employees indicates that while they perceive a sufficient number of policies and guidelines to exist, further clarity of ethical expectations is required.

- *68% of respondents feel that their department has made available sufficient policies and guidelines regarding the ethical standards of behaviour required of them in performing their work.*
- *Yet only about half of respondents (55%) feel that employees in their department are clear on the ethical values expected in performing their work.*

> **Recommendation 1:** We recommend that the CSC develop a policy on values and ethics, or a code of conduct, which includes expectations of:
> a. all civil servants.
> b. senior management in overseeing implementation and compliance with the policy.

1.2   Conflict of Interest Policy should be strengthened

Leading practices suggest that clear policies and processes to deal with conflicts of interest should be in place, and followed consistently. Employees have an obligation to disclose any conflict of interest that exists, may be perceived to exist, or arises over their term of service. Senior management also has an obligation to ensure there are proper policies and procedures in place to deal with conflicts of interest; that these policies are clearly communicated to all staff; and that the policies are complied with.

The Conflict of Interest Policy (**Appendix B**) was put in place in 1984, with some revisions in May 2007 as part of the Civil Service Renewal Strategy. The Conflict of Interest Policy defines conflict of interest as "*any situation in which an employee has a private or personal interest that results in or creates the appearance of improperly influencing the performance of their official duties and responsibilities.*"

The Conflict of Interest Policy provides some guidance as to what constitutes a conflict of interest situation, and specifies that "*responsibility for the disclosure of conflict of interest situations rests with the employee*" who "*has an obligation to review the interaction between their duties and*

responsibilities and their private and personal interests on a regular basis to ensure that they do not conflict." The policy is supported by a Frequently Asked Questions section which notes that the Deputy Minister (or designate) reviews disclosures to determine if a conflict of interest exists and provides advice to the employee on how to avoid the conflict of interest.

We compared the Conflict of Interest Policy to the federal government's Policy on Conflict of Interest and Post-Employment[15] and noted some key differences:

- The federal policy requirements specify that Deputy heads are responsible for education and oversight, and for managing conflict of interest and post-employment situations. Deputy heads are also responsible for monitoring the performance of their organization with respect to the application and administration of the policy.

- The federal policy also specifies that the Treasury Board Secretariat (Office of the Chief Human Resources Officer) is "*responsible for assessing departmental performance with respect to the implementation of this policy, as well as compliance with its related directive, through such instruments as employee surveys, the Values and Ethics Component of the Management Accountability Framework (MAF) or audits as required.*"

- Federal public servants are required to review their obligations under the policy when initially hired, and "*on a regular basis thereafter, and every time a major change occurs in their personal affairs or official duties.*" The public servants' requirements for preventing and dealing with conflict of interest are further specified in sections related to: assets; outside employment or activities; political activities; gifts, hospitality and other benefits; solicitation; and avoidance of preferential treatment. As well, the federal policy provides definitions of conflict of interest and conflict of duties.

Our survey of department employees indicates enhanced policy and procedures related to conflicts of interest would be useful.

- *About a third of respondents (32%) indicated that they have felt that a coworker was in a conflict of interest in conducting their work.*
- *Conflict of interest situations were considered the third most likely type of unethical behaviour and fraudulent activity to occur in the workplace, with 34% of employees indicating the likelihood was high.*
- *About half of respondents (54%) reported that discussions on conflict of interest and identifying potential issues occur in their workplace.*

> **Recommendation 2:** We recommend that the CSC strengthen the Conflict of Interest Policy by including:
> a. specific expectations of civil servants for a broader array of conflict situations and for the submission of conflict of interest declarations.
> b. the responsibilities of senior management in overseeing implementation and compliance with the policy.

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[15] http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=25178&section=text#cha1

1.3 Fraud Prevention and Reporting Policy - purpose not well understood

The Fraud Prevention and Reporting Policy (**Appendix D**) is "*applicable to all intentional acts, or failures to act, which are carried out with the intent to deprive the Province of Manitoba of its rights, or which result in increased expenses or loss of assets by the Province, including the following:*

- *Theft, misappropriation or embezzlement (or attempt thereof), including failure to return government property or information.*
- *Breach of trust by a public officer.*
- *False or fraudulent claims for any government benefit, grant contribution or payment.*
- *Conversion or misuse of public funds, information, intellectual property, general property or services for personal gain.*
- *Any fraud or illegal act in the contracting process, including, but not limited to, bid rigging, price fixing, padding of contracts, kickbacks, etc.*"

The policy is intended to be circulated and posted in all offices in order that all employees are informed of what constitutes fraud, and are made aware that all persons engaging in fraudulent activities will be subject to disciplinary measures and/or legal charges. The policy lists 5 specific expectations of departments aimed, in part, at preventing fraudulent acts. These include conducting an internal fraud exposure evaluation, establishing appropriate financial and administrative procedures to protect assets, and monitoring the effectiveness of these administrative procedures.

Our interviews with senior department officials, as well as other key stakeholders in the administration of this policy, revealed that the purpose of the policy is not clear. The policy was often interpreted as a means to report loss for insurance purposes, rather than fraud prevention (the primary intent of the policy).

The risk of fraud is especially high in government procurement processes so enhanced policies and procedures should be in place to deal with ethical issues in this area. In our discussions with senior department officials, 3 departments told us about enhanced procedures that have been developed with respect to contracting. We noted that the Procurement Administration Manual includes a chapter entitled **Ethics in Procurement** (Chapter 4). However, this chapter is empty, providing no information other than the sub-section headings.
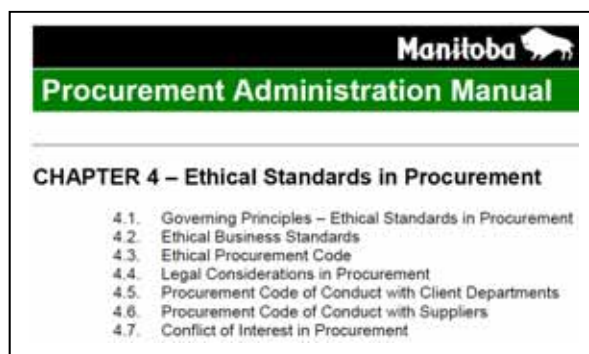
Recommendation 3: We recommend that the Department of Finance conduct a comprehensive review of the Fraud Prevention and Reporting Policy and update the policy as needed.

Web version

> **Recommendation 4:** We recommend that the Department of Finance develop and implement a communication plan to better educate civil servants on the purpose of the Fraud Prevention and Reporting Policy and their related obligations.

> **Recommendation 5:** We recommend that the Procurement Services Branch of Manitoba Infrastructure and Transportation develop and implement the "Ethics in Procurement" chapter of the Procurement Administration Manual.

2. Communication and training efforts need to be enhanced; survey indicated employees would like more training in ethics-related matters

Communicating ethical expectations and training employees on ethical standards of behaviour is an important part of ensuring an ethical workplace. The ethical policies and procedures must be widely communicated to all levels of the organization, with ongoing training and education to increase employee awareness and provide guidance on handling ethical issues arising in the workplace. Employee education and training related to ethics, conflict of interest and fraud awareness should occur periodically, and be tailored to the unique aspects of each department so that it is relevant to specific employee roles and responsibilities.

> Education equips the organization's employees with the necessary tools to act ethically and in accordance with the law. …There should be generalized training geared toward all employees (for example, corporate orientation), and targeted training toward specific audiences (for example, conflict of interest and ethics in contracting/procurement).
>
> **Compliance and Ethics Program Best Practices: Evolving vs. Evolved Programs (*Dalton*)**

2.1 Hiring practices communicate ethical requirements to new employees

Individuals bring different values and attitudes to the workplace. Human Resource policies and practices for hiring new employees should include the communication of the organization's ethical values and expectations with respect to their employment duties. Leading practices suggest that employees be required to certify that they have read and understood ethics-related policies as a condition of employment.

We noted that the CSC's hiring practices include referencing key policies, including the Values and Ethics Guide and the Conflict of Interest Policy. The standard letter of offer provided to all new employees references the ethics-related policies, as follows:

> All civil servants hold a unique position of trust. All employees of the Manitoba government are subject to the following policies and guides: Conflict of Interest Policy, Electronic Network Usage Policy, Sexual Harassment Policy, and Criminal Charges Policy, Respectful Workplace Policy, as well as the Values and Ethics Guide. Please review these policies and guides, available online at http://www.gov.mb.ca/csc/policyman/index.html so that you are familiar with what is expected of you as a civil servant. If you have any questions or concerns, please discuss them with your direct supervisor.

Web version

During the hiring process, new employees are required to sign an Oath of Office and Oath of Allegiance. The Oath of Office is a solemn promise by government employees to discharge their duties responsibly and to refrain from disclosing any information which may come to them because of their employment with government. The Oath of Allegiance is a solemn promise by government employees to be loyal to the Queen; it applies only to Canadian citizens or British subjects. These oaths are not retaken when an employee is transferred or promoted. Former employees who are re-hired after a break in service are required to retake the oaths. The Oath of Office was last updated in October 2013.

We examined a sample of 131 employee personnel files for evidence of signed Oaths of Office (See

The Oath of Office
I, _FULL NAME__, do affirm that I will faithfully and honestly fulfill the duties which devolve upon me as an employee in the government service of Manitoba and that I will not ask or receive any sum of money, services, recompense, or matter or thing whatsoever, directly or indirectly, in return for what I have done or may do in the discharge of any of the duties of my office, except my salary, wages, or other moneys to which I may be lawfully entitled; and that I will not, without due authority in that behalf, disclose or make known any matter or thing which comes to my knowledge by reason of my employment in the government service of Manitoba.
The Oath of Allegiance
I, _FULL NAME__, do affirm that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors, according to law.

Section 2.2 below for discussion of sample selection). We found that the majority (83%) of the personnel files reviewed contained signed Oaths of Office. We did not find a signed Oath of Office in 17% of the personnel files reviewed.

2.2 Conflict of interest declarations required at hire; yet 28% of personnel files examined did not contain any conflict of interest declarations

During the hiring process, new employees are required to sign a conflict of interest declaration form. The standard letter of offer specifically advises that the employee "*must disclose any situation or matter where a real, perceived, or potential conflict of interest may exist.*" CSC advises that employees are also required to sign a conflict of interest declaration form when changing positions or departments, or as necessary when a new conflict of interest situation arises. In March 2013, CSC revised the conflict of interest declaration form, to include the management decision regarding the conflict and any mitigating actions to be taken.

We looked for conflict of interest declaration forms signed at hire in a sample of 131 employee personnel files, representing all departments. Our sample selection was comprised of two categories as discussed in the bullets below. Overall, we found that 47 files (36%) included a signed conflict of interest declaration form at initial hire, and that 66 files (50%) contained declarations subsequent to hire. We found 37 files (28%) did not contain any conflict of interest declaration forms. This is a concern because the files we reviewed are for positions in decision-making roles that could be considered at elevated risk for conflict of interest.

- 89 of the employee personnel files examined were selected from workplaces in 11 departments, with positions considered more susceptible to conflict of interest situations (for example, positions in procurement and property assessment). We found that 38 files (43%) included a signed conflict of interest declaration form at initial hire, and that 30 files (34%) contained declarations subsequent to hire. A total of 32 files (36%) did not contain any conflict of interest declaration forms.

- 42 of the personnel files examined were Assistant Deputy Ministers (ADMs) from all departments. We looked for conflict of interest declaration forms at hire, as well as when promoted to ADM. We found that 9 files (21%) contained conflict of interest declarations signed at hire, and that 36 files (86%) included declarations subsequent to hire. A total of 5 files (12%) did not contain any conflict of interest declarations. This is a concern given that ADMs are required to sign conflict of interest declaration forms annually (See Section 3.3 for further discussion).

Recommendation 6: We recommend that the CSC develop and implement procedures to better ensure employees submit conflict of interest declaration forms as required.

2.3   Online corporate orientation program includes specific discussion on values and ethics

All new employees are advised in the standard letter of offer that they are required to complete an online corporate orientation course within the first 2 weeks of their employment, as follows:

> Information Security Awareness and Corporate Orientation courses are available online through Organization and Staff Development's Learning Management System (LMS) http://www.gov.mb.ca/csc/osd. As a new employee, you are expected to complete these courses within the first two (2) weeks of your new employment with the Manitoba government. Should the nature or physical location of your duties not enable access to a network computer, alternate arrangements will be made by your supervisor to ensure your timely completion of these important courses.

The CSC's online corporate orientation program was implemented in June 2011. The online program takes about 2 hours to complete and is composed of 5 modules. Section 2 of the first module provides specific discussion on the Values and Ethics Guide. The corporate orientation program also discusses *The Public Interest Disclosure (Whistleblower Protection) Act*.

We reviewed the registrations for the online training program and found that 368 employees had registered and taken this course between June 2011 and December 2013. This is out of a total of 2111 new external hires in 2012/13 and 2011/12.[16] At the time of our audit, a follow-up process was not yet in place to ensure all new civil servants had participated in the online corporate orientation program.

Recommendation 7: We recommend that the CSC develop and implement follow-up procedures to ensure that all new employees complete the online corporate orientation program as required.

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[16] Manitoba Civil Service Commission Annual Report, 2012-2013.

Web version

2.4 While policies are available online, more communication methods would be useful

Once employees are in the workplace, it is important that corporate policies that affect their work be readily available for reference when issues arise, and that employees know where to go or who to ask to find them. We reviewed the availability and ease with which department employees can access the policies and information related to the Values and Ethics Guide.

The CSC's intranet site, which is available to employees of all departments, makes the Values and Ethics Guide and related policies readily available from links on its main page. Further, we noted that many of CSC's policies, including the Values and Ethics Guide, are accessible to any member of the public on the government's internet website (www.gov.mb.ca/csc).

We noted that 16 departments have developed intranet sites for their employees. We reviewed these intranet sites and found that 14 of them either referenced the Values and Ethics Guide directly, or provided a link to the CSC intranet site. In most cases, the Guide is easily accessed within a few clicks. During our audit, one department (included in the total number of 14) added information to its intranet site under a main heading entitled, Ethical Corporate Environment, which includes links to the Values and Ethics Guide and other related policies.

A limitation to the online means of communication currently used is that not all employees within the civil service have access to the internet and/or their department's intranet sites at their workplace. We noted a brochure on the Values and Ethics Guide had been produced, but no other communication materials specific to values and ethics are currently made available to departments.

Our survey of department employees indicates that the communication of ethical expectations and where to go for help in resolving ethical dilemmas could be improved.

- *As noted previously, only about half of respondents (55%) feel that employees in their department are clear on the ethical values expected in performing their work.*
- *Even less (47%) indicated that discussions about values and ethics occur in their workplace.*
  - The federal government's Public Service Employee Survey, last conducted in 2011, also tracks this indicator of effectiveness. Manitoba's result (47%) was lower than that of the Canadian public service (57%).[17]
- *65% of respondents indicated that if faced with an ethical dilemma, they know where to go for help in resolving the situation.*
  - The federal government's Public Service Employee Survey, last conducted in 2011, also tracks this indicator of effectiveness. Manitoba's result (65%) was lower than that of the Canadian public service (74%).

> **Recommendation 8:** We recommend that the CSC and departments utilize more communication methods to ensure employees throughout the civil service are aware of and understand the ethical requirements.

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[17] www.tbs-sct.gc.ca/pses-saff/2011/ve-eng.asp#ftn1

Web version

2.5 Training on values and ethics recently developed; includes conflict of interest

Periodic training throughout an employee's term of service is an important aspect of professional development and is critical to reinforcing the corporate expectations of employees over time. Ethics training is of significant corporate value because it assists managers and employees in understanding, demonstrating and maintaining required ethical standards. As ethical issues and conflict of interest situations are often ambiguous in nature, ethics-related training should include providing scenarios and exercises in which participants are given concrete examples of ethical situations pertinent to their workplace. Such exercises provide an opportunity for managers and employees to work through the considerations and thought processes required to ensure decisions are consistent with organizational values. Ethics-related training should also be integrated into leadership development programs, as it is critically important for management to be trained in how to deal with any issues brought forward to them by employees.

> Over time, companies can reduce the frequency of incidents by ensuring the workforce is made aware of, and properly trained on, the behavioral expectations and guidelines found in their policies.
>
> **Key Trends in Effective Policy Management (*The Network*)**

Over the past year, the Organization and Staff Development (OSD) branch of CSC has developed a workshop on values and ethics, entitled **Working in the Manitoba Government: Values and Ethics in the Manitoba Civil Service**. The workshop considers key aspects of working in government, including values and ethics, working within a political environment, and conflicts of interest. It incorporates exercises and case studies of ethical dilemmas and conflict of interest situations for participant discussion. This workshop was piloted in February 2013 to 12 participants and the first full day course was conducted in November 2013 with 12 participants.

The topic of values and ethics is included in other OSD training courses, for example the Essentials of Supervision course, and the Certificate in Public Sector Office Administration (CPSOA) program. Also, OSD partners with the University of Manitoba Continuing Education program to provide a number of elective workshops, including the above-noted values and ethics workshop, as part of the Certificate in Public Sector Management program.

There is currently no training for senior management, specific to values and ethics or conflict of interest. It is especially important that senior management be trained, not only to ensure consistent understanding of ethics-related requirements, but how to appropriately assess and deal with issues brought to their attention.

The registration fee for the new values and ethics workshop is currently $222 per person. These costs are generally paid by the employee's department or public sector organization, but may be incurred by the individual. In times of fiscal restraint, the costs for such training may deter departments from registering employees for this training. Ensuring that all employees are provided with ethics training is important from a corporate perspective, as it deals with how employees are expected to conduct themselves in the workplace.

Our discussions with senior department officials noted that many departments had utilized the training opportunities and assistance provided by the Respectful Workplace Office (**Appendix C**), and positive feedback was received with respect to having this resource available to departments free of charge.

Our survey of department employees indicated that more training in ethics-related topics would be welcomed.

- *Only 40% of respondents feel they have been provided adequate training to know what to do if a coworker (or direct report) approaches them with an ethical dilemma or conflict of interest situation.*

- *Employees requested more training with respect to:*
  - *Decision-making and critical thinking skills (59%)*
  - *Ethics training specific to their department (57%)*
  - *Conflict of interest issues specific to their department (53%)*
  - *Respectful workplace issues, such as bullying, harassment, etc. (48%)*
  - *Fraud awareness training and identification of risk within my department (34%)*
  - *Other (5%) – The most frequent training suggestions in descending order were:*
    - *Leadership training for senior managers (16%)*
    - *Racism & diversity training (9%)*
    - *How to report/address issues (9%)*

In December 2013, the Manitoba Ombudsman's Office released its report entitled, **Report on Complaint of Alleged Partisan Action by Civil Servant**, which noted the following actions will be taken by the Civil Service Commission:

- *The Civil Service Commission will work with Deputy Ministers to ensure civil service employees understand the principle of civil service impartiality and neutrality and their obligations as outlined in the Values and Ethics Guide.*

- *The Civil Service Commission will create an implementation plan in consultation with each Department to ensure that all civil service employees attend **Working in the Manitoba Government: Values and Ethics in the Manitoba Civil Service**.*

Recommendation 9: We recommend that the CSC, in conjunction with departments, develop and implement a strategy for providing ethics-related training to all employees. The strategy should require that ethics-related training be provided to employees on an ongoing and periodic basis, and that training be provided to management in how to handle any ethical issues or violations brought forward by employees.

2.6   Fraud awareness training does not occur

Fraud awareness training is a key aspect to preventing, detecting and dealing with instances of fraud. While internal control processes need to be in place to protect against fraud and mitigate negative impacts, studies show that fraud is most likely to be detected by tips from employees than by any other method.[18] As such, having employees who can recognize fraud is a valuable

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[18] Association of Certified Fraud Examiners (ACFE), Report to the Nations on Occupational Fraud and Abuse: 2012 Global Fraud Study, 2012. www.acfe.com

Web version

asset that may significantly reduce the incidence of fraud in the workplace. Procedures should be in place that clearly identify what employees are to do if they see or suspect fraud within their workplace. Reporting hotlines or web-based portals are a leading practice as an avenue for employees to report misconduct.

> Targeted fraud awareness training for managers and employees is a critical component of a well-rounded program for preventing and detecting fraud. …At a minimum, staff should be educated regarding what actions constitute fraud, how fraud harms everyone in the organization and how to report questionable activity.
>
> **ACFE Report to the Nations, 2012**

Fraud awareness training is not currently provided by OSD. Such training would be especially useful for managers and employees in areas at high-risk for fraudulent activity. Our discussions with senior department officials indicated that one department had held staff training related to fraud awareness in program delivery, and that one department had begun fraud awareness activities and was planning fraud awareness training in future.

Our survey of department employees found that:

- *34% of respondents would like to have more training with respect to fraud awareness and identification of risk within their department.*
- *25% of respondents indicated that the type of work done in their workplace is at high risk for misconduct or fraudulent activity.*

> **Recommendation 10:** We recommend that the CSC include fraud awareness training in its strategy for providing ethics-related training to all employees.

3.   Monitoring efforts need more focused attention

Leading practices for ethics programs suggest that protocols and processes should be in place to monitor the implementation of ethical standards throughout the organization. As well, the ethics program should be given sufficient senior management focus to ensure implementation of ethics-related policies throughout an organization. Many organizations appoint a Chief Ethics Officer to monitor organizational compliance with ethics-related policies. Other methods to ensure ethical standards are continually monitored and reinforced include: ensuring ethical behaviour is assessed on employee performance reviews; ensuring employees periodically review and sign conflict of interest declaration forms; ensuring risk management and fraud controls are continually monitored; and most importantly, senior leaders reinforcing the ethical standards in their actions, words and decision-making.

> HR professionals play a crucial role in shaping corporate ethical codes, policies and procedures and then communicating and teaching that information to the workforce. In many companies, the top HR manager either serves as the de-facto chief ethics and compliance officer or works with the person in that role to manage ethics and compliance programs. Apart from the chief executive officer, there may be no more important ethical role model in the organization than an HR manager.
>
> **How to Conduct an Ethics Audit (*Krell*)**

Web version

3.1 CSC provides advice but no direct monitoring

The CSC provides human resource services to all departments through 4 Service Centres, each staffed by a Director, as well as consultants and managers who work directly with the departments. The Directors and consultants provide assistance to department management in the hiring process, as well as advice on human resource issues that arise. We noted that the 4 Service Centre Directors regularly attend the Executive Management Committee meetings of the departments they service. This facilitates the provision of reports on human resource issues within the department, and also provides the Directors an opportunity to gain knowledge of the department and awareness of its operational issues, including any ethical challenges which may be faced.

> The CSC Service Centres provide human resource services to the following Departments:
>
> **Service Centre 1**: Justice
>
> **Service Centre 2:** Aboriginal and Northern Affairs; Agriculture, Food and Rural Development; Conservation and Water Stewardship; Housing and Community Development; Municipal Government
>
> **Service Centre 3:** Education and Advanced Learning; Jobs and the Economy; Finance; Mineral Resources; Infrastructure and Transportation
>
> **Service Centre 4:** Children and Youth Opportunities; Labour and Immigration; Family Services; Health; Healthy Living and Seniors; Multiculturalism and Literacy; Tourism, Culture, Sport and Consumer Protection

Senior management is responsible for ensuring that the Values and Ethics Guide and related polices are effectively implemented within their specific department. The CSC advised us it does not see a role for itself in overseeing the implementation of ethics-related policies across departments. While Deputy Ministers play a vital role in implementing central policies within their respective departments, we believe central agencies such as the CSC have a key role in ensuring that department implementation and monitoring efforts government-wide meet expectations. This is critical for ensuring all civil servants are held to the same standards.

We noted that there is no position designated as an Ethics Advisor to provide guidance and expertise to departments. The CSC advised us that the HR Director and consultants assigned to each department are available to provide such advice when requested.

Some of the challenges noted by senior department officials in ensuring consistent implementation and reinforcement of ethics-related policies included the geographic spread of department employees throughout the province, and for some departments, the nature of the work itself creating ethical issues or opportunity for misconduct.

Assessing ethical behaviour through employee performance reviews is an important method to reinforce the importance of values and ethics throughout the organization. Our discussions with senior department officials, as well as CSC's Directors, found that only some departments are conducting performance reviews regularly, while others may only conduct reviews when there are performance issues. Our discussions with CSC's Directors noted that they are not generally involved in employee performance reviews, although they may provide advice to management on how to communicate or handle a difficult performance review.

Our survey of department employees indicated the need for more proactive monitoring in the workplace.

- *Less than half of respondents (46%) report that management proactively monitors the workplace and holds employees to appropriate ethical standards.*
- *55% of employees do not perceive that theft from the department would be discovered.*

- *Only 22% of employees reported that ethical behaviour is discussed and assessed during their performance review.*

> **Recommendation 11:** We recommend that the CSC require periodic reports from departments on their implementation of ethics-related policies, including the Values and Ethics Guide. Upon receipt of the reports, we recommend that the CSC proactively provide support to those departments with less-developed implementation processes.

3.2   Importance of tone at the top recognized

The main responsibility for setting an ethical tone within any workplace rests with senior management. Ultimately, regardless of the policies put in place, the ethical standards and tone that is demonstrated at the senior levels of the organization is reflected throughout the entire organization. This constitutes "tone at the top", and its impact on the overall ethical climate within the workplace cannot be overstated. The attitudes, choices and actions of senior leaders play a primary role in the creation of an organization's ethical culture and climate. Visible support for, and consistent application of, the ethical policies by senior management is essential to an effective ethics program; senior leaders must "walk the talk".

> Tone at top is the primary catalyst for enterprise wide ethics, and leaders should take ultimate responsibility for the state of ethics within their organization. It is also up to those executives to embed ethics into their management culture, on a daily basis.
>
> **Seven Elements (*The Network*)**

As leaders of public sector organizations, Deputy Ministers, Assistant Deputy Ministers and Executive Directors within departments must conduct themselves in accordance with the highest standards of behaviour, and recognize their interactions and decision-making behaviours serve as a role model for all others in the organization. Senior management must ensure their actions set an appropriate tone and example for all ethical requirements, as well as full compliance with both the letter and spirit of all applicable laws, government policies and procedures. Further, senior management must act, and also be perceived to act, in a manner that does not result in any conflict of interest situations.

Our discussions with senior department officials noted 11 departments who provided specific activities and examples that reinforce tone at the top within their environment. Some examples included: communication through a Deputy Minister's blog, newsletters, etc.; handwritten acknowledgment/thank you cards from the Deputy Minister or senior management; and open town-hall style meetings with the Deputy Minister that allows employees to raise any matter of interest or concern to them.

Our survey of department employees found good support for direct supervisors/managers but senior managers could do more to lead by example.

- *75% of respondents reported that their direct supervisor/manager supports them and their colleagues in conducting their work in an ethical manner.*

- *69% of respondents feel comfortable talking to their supervisor/manager about ethical issues which arise within their work environment.*

- *57% of respondents perceive that senior managers in their department demonstrate the importance of integrity and lead by example in ethical behaviour.*
  - The federal government's Public Service Employee Survey, last conducted in 2011, also tracks this indicator of effectiveness. Manitoba's result (57%) was similar to the Canadian public service (58%).[19]

- *When asked if senior management is held accountable for their own ethics violations, just over a third of respondents (37%) perceive that to be true. A third of respondents (33%) perceive senior management would not be held accountable for ethical violations.*

What's a Leader to Do?

In order to demonstrate their commitment to ethics and to promote ethics in the culture and climate of their organizations, leaders should:

- **Walk the talk** – Demonstrate integrity, model ethical commitment and set a good example by adhering to organizational values.
- **Keep people in the loop** – Open communication engenders trust.
- **Encourage thoughtful dissent** – Be open to honest questions and valid concerns. Acknowledge and correct mistakes.
- **Show them you care** – Make stakeholder satisfaction a priority and back that up with action.
- **Don't sweep problems under the rug** –Deal with ethical issues that arise and then communicate that you have.
- **Celebrate the successes** – recognize and reward ethical behavior.
- **Be fair** – exercise standards consistently and hold all levels accountable to the standards.
- **Make ethics a priority** – be clear, in word and deed, that ethics is as important as other business objectives.
- **Make the tough calls** –demonstrate unwavering commitment to upholding organizational values – even when particularly challenging.
- **Get the right people and keep them** – make ethical commitment a priority in hiring and a condition for retention.

Ethical Culture Building: A Modern Business Imperative (ECOA)

3.3 Conflict of interest declarations required annually by DMs and ADMs

Leading practices suggest that all employees should be required to update their conflict of interest declarations on a periodic basis, preferably annually. An employee's situation can change from year to year and conflicts that may not have existed when first hired to their position may arise over their term of service.

The CSC annually sends a memo to Deputy Ministers (DMs) requesting them to make an annual conflict of interest disclosure to the Clerk of Executive Council. The most recent memo was sent in January 2013. Within the memo, CSC also advises Deputy Ministers that their Assistant Deputy Ministers (ADMs) *"are required to provide…their written annual declaration even if no change has occurred,"* and that other employees *"should be reminded by their supervisors that they are to review their current situation and revise their declaration if there has been any change in the information they have on file."*

Given the requirement for ADMs to provide annual declarations even if no change has occurred, we examined the personnel files of 42 ADMs from all departments. We found only 6 files (14%) where annual declarations were being signed after being promoted to the ADM position.

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[19] www.tbs-sct.gc.ca/pses-saff/2011/ve-eng.asp#ftn1

The implementation of Recommendations 2 and 6 will address this situation.

> **Recommendation 12:** We recommend that the CSC amend the Conflict of Interest Policy to require that all employees update their conflict of interest declaration forms on a periodic basis, preferably annually.

3.4   Conflict of Interest Commissioner of Manitoba has no role with respect to senior public servants

Manitoba has enacted legislation with respect to the ethical conduct of members of the Legislature and Executive Council: *The Legislative Assembly and Executive Council Conflict of Interest Act (1988-89),* and *The Legislative Assembly and Executive Council Conflict of Interest Act Amendment Act* (October 2008). These Acts apply to Ministers and all Members of the Legislative Assembly, with some provisions of the Act also applying to senior public servants, such as the Clerk of Executive Council, Deputy Ministers & equivalents, and Assistant Deputy Ministers. The Act also applies to Order-In-Council appointments of Chairs, Presidents, Chief Executive Officers (CEOs) and deputy CEOs of all crown agencies (all boards, commissions, associations, etc.), or someone designated by Lieutenant Governor In Council.

The Act provides for a part-time Conflict of Interest Commissioner who is to report annually to the Legislature about the exercise of their responsibilities under the Act. The Commissioner acts as an advisor to Members of the Legislative Assembly (MLAs) with respect to their obligations under the Act, and meets with each member either before or within 60 days of the member filing his or her disclosure statement to review the disclosure of the Member's interests and general obligations imposed by the Act.[20] The annual reports of the Conflict of Interest Commissioner are publically available. The Conflict of Interest Commissioner's website notes that the Commissioner's only role is to advise MLAs with respect to their requirements under the legislation, and as such, has no direct interaction with the public.

The first Conflict of Interest Commissioner in Manitoba was appointed in December 2002 and served until December 2009. The current Conflict of Interest Commissioner was appointed January 2010, and also serves as the Lobbyist Registrar of Manitoba, and the Information and Privacy Adjudicator. We spoke to the current Conflict of Interest Commissioner about his role with respect to senior public servants, as defined in the Act. The Conflict of Interest Commissioner advised that the sections of the Act that apply to senior public servants are not related to his position, and he does not provide advice to senior public servants, nor oversight of the conflict of interest declarations of senior public servants.

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[20] www.mbcoic.ca

3.5 Internal fraud exposure evaluations required by Fraud Prevention and Reporting Policy not completed

The Fraud Prevention and Reporting Policy requires an internal fraud exposure evaluation be completed by each department. Fraud exposure evaluations would help identify those areas within a department that warrant a particularly strong internal control, and significant management oversight. Our discussions with senior department officials indicated that no departments have complied with this policy requirement. The department's Comptrollership Plans were noted as an aspect of fulfilling this requirement, however an internal fraud exposure evaluation is a more detailed and focused risk management exercise. Our review of departments' Comptrollership Plans noted that 2 departments were without completed plans and 3 departments had plans that were over 3 years old. Of the 13 plans reviewed, 12 referred to the Fraud Prevention and Reporting Policy in the Fraud Awareness section, and 9 referred to the Values and Ethics Guide in the Education and Training section.

> The cost of occupational fraud – both financially and to an organization's reputation –can be acutely damaging. With nearly half of victim organizations unable to recover their losses, proactive measures to prevent fraud are critical. Management should continually assess the organization's specific fraud risks and evaluate its fraud prevention programs in light of those risks.
>
> **ACFE Report to the Nations, 2012**

Our survey of department employees indicated that a quarter of workplaces are perceived to be at high risk for fraudulent activity.

- *25% of respondents indicated that the type of work done in their workplace is at high risk for misconduct or fraudulent activity. Half of respondents (50%) did not feel their workplace is at high risk.*

- *70% of respondents indicated that they have never felt pressure from management or coworkers to violate ethical standards or behave in an unethical manner.*

- *Employees were asked to assess the likelihood of certain types of inappropriate activities occurring in their workplace. The list provided on the survey included both ethical misconduct and fraudulent activities. The following table provides the results, ranked in descending order:*

Type of fraudulent activity / ethical misconduct	Likelihood (%)
Misuse of work time by employees or misreporting time worked	49
Harassment or inappropriate conduct in the workplace	44
Conflict of interest situations	34
Theft of government property or resources	32
Violations of health or safety regulations	29
Privacy violations or misuse of confidential government information	25
Discrimination based on race, colour, gender, age or other diversity categories	24
Fraudulent expense account claims	21
Monetary gain as a result of a government position or activity	14
Giving or accepting bribes or kickbacks	12
Inaccurate financial reporting	10
Buying personal items on government credit cards	8
Falsifying organizational or financial records	8
Contract or procurement fraud	7
Theft of cash	6

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- *Further, we asked employees if there was any other type of unethical or fraudulent behaviour not mentioned above that they feel is very likely to occur in their workplace. 578 respondents provided a response, the most frequent of which were:*
  - *Inappropriate hiring practices (20%)*
  - *Bullying or abusive treatment of staff (14%)*
  - *Improper personal use of government-owned property (supplies, tools, vehicles, etc.) (9%)*
  - *Abuse of breaks, wasting work time, and abuse of overtime (8%)*
  - *Preferential treatment and favoritism (6%)*
  - *Mistreatment of clients or program participants (6%)*
  - *Discrimination and racism (5%)*
  - *Abuse of sick time (5%)*
  - *Political interference (3%)*
  - *Misrepresentation of facts in government communications, reports, case files, etc. (3%)*

> **Recommendation 13:** We recommend that the Department of Finance require that departments conduct internal fraud exposure evaluations and use the results to assess the sufficiency of existing controls and management oversight to prevent fraud.

4. Systems to identify, mitigate, and report issues require improvement

Leading practices for ethics programs suggest that systems be put in place to identify, mitigate and report any violations which may occur. Employees must be provided with clear guidelines for reporting ethical misconduct and fraudulent activity. Ethical issues must be taken seriously by management and handled appropriately if and when situations occur. While respecting and maintaining individual confidentiality, the workplace must be made aware that action is taken, disciplinary measures enacted, and policies and procedures modified as necessary. The ethical conduct of senior management must be even more rigorously enforced; there can be no double-standards when it comes to ethics. Inappropriate management conduct must be thoroughly investigated, with appropriate disciplinary action taken if necessary.

> It is essential for the organization to address reports appropriately and in a timely fashion. If reports are either mishandled or left unresolved, the compliance and ethics program will lose credibility, and the value of the available reporting avenues will decrease.
>
> **Compliance and Ethics Program Best Practices: Evolving vs. Evolved Programs (*Dalton*)**

4.1 No process for anonymous reporting of concerns

Employees need to be aware of where and how to report ethical concerns that they become aware of within their workplace. Most importantly, employees need to feel safe in doing so. Because fraud is most likely to be detected by employees, reporting procedures should be in place that clearly identifies what employees are to do if they see or suspect misconduct or fraud. Leading practices for ethics programs emphasize the importance of reporting hotlines, and that allowing anonymity and confidentiality in reporting is a key aspect to an effective ethics program.

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Within the civil service, employees are encouraged to report any issues to their direct supervisor. If they do not feel comfortable speaking with their direct supervisor, or the issue relates to their supervisor, an employee is to consider a number of other options where they would feel most comfortable reporting the issue (listed in survey results below). However, there is no anonymous method of reporting nor an ethics hotline.

> Providing individuals a means to report suspicious activity is a critical part of an effective anti-fraud program. Fraud reporting mechanisms, such as hotlines, should be set up to receive tips from both internal and external sources and should allow anonymity and confidentiality. Management should actively encourage employees to report suspicious activity, as well as enact and emphasize an anti-retaliation policy.
>
> **ACFE Report to the Nations, 2012**

If an employee chooses to disclose a wrongdoing under *The Public Interest Disclosure (Whistleblower's Protection) Act*, procedures for reporting are specified. However, the Act specifies that it is not intended to deal with routine operational or administrative matters, and is limited to only dealing with serious and significant issues as defined by the Act (see Section 4.2 for further discussion of this Act).

Our survey of department employees found that employees are most likely to report issues to their direct supervisor but some are not comfortable reporting at all.

- *As noted previously, 69% of respondents feel comfortable talking to their supervisor/manager about ethical issues which arise within their work environment.*
- *27% of respondents indicated they would not feel comfortable reporting ethical misconduct or suspected improprieties that they became aware of in their workplace.*
- *Survey respondents indicated they would be most likely to report ethical misconduct or suspected fraud to the following:*
  - *Direct Supervisor or Manager (68%)*
  - *Senior management of your department (9%)*
  - *Union (4%)*
  - *Department's Human Resources officer or the Civil Service Commission (3%)*
  - *The Respectful Workplace Advisor (1%)*
  - *The Employee Assistance Program (1%)*
  - *The Manitoba Ombudsman's Office (1%)*
  - *The Office of the Auditor General (1%)*
  - *Unsure (10%)*
  - *Other (3%) - The most frequent responses in descending order were:*
    - *No one, as fear reprisal or no point in reporting (24%)*
    - *Depends on the situation (20%)*
    - *Co-worker (11%)*
    - *Other trusted management (7%)*
    - *Cannot report as management involved (5%)*

The National Business Ethics Survey[21] is a longitudinal study of workplace ethics in the United States that is now in its 17th year. This survey has tracked a number of important dimensions of ethics programs, including three key indicators: how many employees have witnessed

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[21] Ethics Resource Centre (ERC), 2011 National Business Ethics Survey: *Workplace Ethics in Transition*, 2012. www.ethics.org

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misconduct; how many reported the misconduct; and whether retaliation was experienced by those who reported. In their 2012 survey report, the results indicated that 45% of employees had witnessed misconduct at work. 65% of these employees reported this misconduct to management; with 22% reporting they experienced some form of retaliation as a result (a sharp rise from previous years).

Our survey asked department employees for their perceptions on these same indicators and found that:

- *32% of respondents reported they are personally aware of fraudulent activity/ethical misconduct in their workplace within the last year.*
- *Of those that were aware of fraudulent activity/ethical misconduct in their workplace, about half (53%) reported the instance to management. 25% of respondents did not report the instance to management.*
- *Of those that reported the misconduct, 29% felt that they experienced some form of retaliation as a result.*
- *For those that did not report the misconduct to management, the following reasons influenced their decision not to report:*
  - *Did not feel it would be appropriately dealt with (59%)*
  - *Afraid of retaliation from management (53%)*
  - *Did not want to become involved in the situation (46%)*
  - *Afraid of retaliation from coworkers (45%)*
  - *Not sure if the issue was serious enough to report (37%)*
  - *Not sure who to report it to (32%)*
  - *Spoke to the person directly about the issue (11%)*
  - *Unsure (5%)*
  - *Other (18%) - The most frequent responses in descending order were:*
    - *Management/Executive involved or at their direction (41%)*
    - *Felt unsafe/threatened or experienced retaliation (20%)*
    - *Nothing was done or would be done (19%)*
    - *Not enough proof or second-hand information (7%)*
    - *Someone else reported it (5%)*

We are concerned that employees perceive issues of ethical misconduct would not be appropriately dealt with, and they fear retaliation. We believe more has to be done to reinforce a workplace culture that is not afraid to bring issues forward and that sees that ethical issues are taken seriously and appropriately dealt with.

> **Recommendation 14:** In addition to the disclosure procedures under *The Public Interest Disclosure (Whistleblower Protection) Act*, we recommend that the CSC develop and implement a process to enable employees to report concerns of ethical misconduct, including anonymous disclosures.

4.2 Limited use of *The Public Interest Disclosure (Whistleblower Protection) Act*; survey indicates more information and assurances needed

The Public Interest Disclosure (Whistleblower Protection) Act came into effect in April 2007. The Act applies to all departments, Crown Corporations, and funded agencies that receive more than 50% of their funding from government. The Act provides a process for disclosing concerns about significant and serious matters (i.e., wrongdoing) in the Manitoba public service, and is intended to strengthen protection from reprisal. CSC is responsible for the legislative development, implementation and administrative roles for *The Public Interest Disclosure (Whistleblower Protection) Act* across the civil service. CSC provides expertise and guidance to departments and public bodies regarding their statutory responsibilities under the Act.

The Act is not intended to deal with routine operational or administrative matters; rather, wrongdoing under the Act is limited to the following:

a. an act or omission constituting an offence under federal or provincial legislation.

b. an act or omission that creates a specific and substantial danger to the life, health or safety of persons or the environment.

c. gross mismanagement, including mismanagement of public funds or a public asset.

d. knowingly directing or counselling a person to commit a wrongdoing in any of the above clauses.

All departments have established a Designated Officer to receive and manage disclosures under the Act. The Designated Officer is a senior official, most often the Executive Finance Officer, in the department. The CSC has established a Designated Officers Network to provide a cross-department forum for information-sharing, networking and exchanging ideas/experiences regarding their responsibilities under *The Public Interest Disclosure (Whistleblower Protection) Act*.

The Act provides protection for disclosures made to an employee's supervisor, the department's Designated Officer, or the Manitoba Ombudsman's Office. A disclosure made by an employee in good faith, in accordance with the Act, and with a reasonable belief that wrongdoing has been or is about to be committed is considered to be a disclosure under the Act, whether or not the subject matter constitutes wrongdoing. An employee may ask the Designated Officer or Manitoba Ombudsman for advice prior to making a disclosure.

Specific procedures have been put in place to assist departments in receiving and managing disclosures, and in conducting any investigation under the Act. These procedures are available on the CSC's intranet site under the link entitled, Public Interest Disclosure Act. The procedures require that the disclosure be in writing, be signed by the employee(s), and include specific details about the wrongdoing that has been, or is about to be, committed.

All disclosures under the Act are required by legislation to be reported in the department's annual report. We found 6 disclosures under this Act reported in annual reports, as noted in following table:

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Year	Department	Result (as reported in Annual Report)
2007/08	Education, Citizenship and Youth	No investigation, as disclosure did not fall within the scope of the Act.
2009/10	Health	Investigated, but no finding of wrongdoing under the Act. This result was reported in 2010/11.
2009/10	Infrastructure and Transportation	Disclosure received in 2008/09 was investigated. Finding of wrongdoing, and appropriate disciplinary action taken by an Agency.
2012/13	Conservation and Water Stewardship	Disclosure received, but investigation not initiated as did not fall within the categories of wrongdoing in the Act.
2012/13	Health	Disclosure made to Department and to the Ombudsman's office. The Ombudsman is conducting the review. No action taken by Manitoba Health.
2012/13	Infrastructure and Transportation	Investigated, but no finding of wrongdoing.

We were told that disclosures which do not meet the definitions of a wrongdoing under the Act are investigated through other means. However, these concerns are not tracked or recorded, and are not reported in the department's annual report.

Some suggestions made by senior department officials regarding how to improve the administration of *The Public Interest Disclosure (Whistleblower Protection) Act* included the need for more communication of the Act, and more training for management in conducting investigations.

Our survey of department employees indicated that more information and assurances are required with respect to *The Public Interest Disclosure (Whistleblower Protection) Act*.

- *When asked if they know who the Designated Officer is for their department, only 12% of respondents said yes. 72% of respondents said no and 16% were unsure.*
- *Less than a third of respondents (29%) reported feeling confident that they would be protected from reprisals if they reported an issue under The Public Interest Disclosure (Whistleblower Protection) Act.*
- *When asked to whom they would be most likely to make a disclosure under The Public Interest Disclosure (Whistleblower Protection) Act:*
  - *Their Supervisor (58%)*
  - *Department's Designated Officer (21%)*
  - *Manitoba Ombudsman's Office (21%)*

In our 2013 Annual Report to the Legislature, within our audit of the Office of the Fire Commissioner (Chapter 6), we recommended that *The Public Interest Disclosure (Whistleblower Protection) Act* be assessed and revised if necessary.

We note that *The Public Interest Disclosure (Whistleblower Protection) Act* is currently under review. An independent reviewer was contracted in fall 2013 to provide recommendations related to the Act. The report is expected to be finalized in February 2014.

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> **Recommendation 15:** We recommend that CSC and departments track and report all disclosures of ethics-related matters that do not fall under the scope of *The Public Interest Disclosure (Whistleblower Protection) Act,* and are investigated through other means.

4.3 Investigations of ethical violations occur; not tracked and categorized by type

Investigation of violations must be taken promptly to resolve any ethical misconduct or fraudulent activity which may arise, and corrective actions taken to prevent any further or similar conduct in future. The organization should also maintain a database of incidents so that any trends, patterns, or systemic weaknesses can be identified and changes made, as required.

> It is good practice for an organization to record every allegation of fraudulent conduct that is reported to it, preferably in a central database. This enables proactive analysis of potential fraud hot spots and it can be used to direct the activities of internal audit. A central database also enables trends and analysis of fraud types to be undertaken and profiles to be developed based on systemic types of fraud cases.
>
> **Better Practice Guide: Fraud Control in Australian Government Entities (*ANAO*)**

Our discussions with senior department officials included examples of misconduct and fraud that have recently been investigated by departments. Five departments indicated they have investigated conflict of interest issues which have resulted in disciplinary action, up to and including termination. Nine departments indicated they had dealt with fraud issues resulting in disciplinary action, up to and including termination.

The CSC advised us that it provides support to management in managing human resource issues within all departments, and this includes becoming involved in most investigations involving employee conduct. A number of training courses have been developed for supervisors, managers and CSC staff on various aspects of investigating and enforcing workplace requirements. These include: Managing Under the Collective Agreement, Discipline & Grievance Handling, and the Essentials of Supervision. We were advised that the OSD branch of CSC is currently developing a new Investigation Skills workshop for the human resource community.

We discussed with CSC the nature of their investigative process but did not examine any investigation files. CSC advised us that when conducting investigations, an initial risk analysis is conducted to assess what interim action, if any, is required based on the alleged incident, its seriousness, and the immediate impact on the workplace. All employees have an obligation to cooperate with the investigation, and a duty exists on the part of the affected employee to provide adequate explanation. We were advised that the standard used in investigations is the standard of a reasonable person and conclusions are reached on the weight of evidence and based on the "notion that it is possible or probable that a reasonable person would reach these same conclusions". The level of penalty is based on the principles of corrective action and progressive discipline, and considers factors such as the seriousness of the wrongful act, the employee's length of service, employment history, and record of performance.

CSC advised us that the total number of investigations conducted in the past two years are: 645 investigations in 2012/13; and 503 in 2011/12. The investigations are not tracked or logged in a manner that would easily allow identification of how many of these are related to ethical

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misconduct or fraudulent activity, versus other human resource-related matters. Not maintaining the investigations by category/type is a lost opportunity to identify trends or systemic issues that may exist. This would allow CSC and departments to make changes to policy and practices in order to mitigate any future issues, or to develop future policies and training to address issues.

> **Recommendation 16:** We recommend that the CSC and departments track investigations by type.

4.4 No information reported on disciplinary actions; only half of survey respondents perceive those who violate ethical standards will be caught or subject to appropriate consequences

Leading practices specify that ensuring employees are made aware of the consequences for violating ethics-related policies is a key deterrent to fraud in the workplace. As noted previously, if employees see or perceive other employees cheating or stealing in the workplace without repercussions, studies show that this will encourage 66% of employees to do so as well.[22] Not communicating management's response to incidents of fraud when they occur can discourage staff from raising concerns. Informing staff about fraud helps to promote the message that fraud and any associated misconduct are taken seriously, which is a vital part of building a culture that promotes fraud awareness.

> Too often companies bury in the corporate vault how they dealt with reports of misconduct. This practice significantly undermines employees' confidence in their organization's commitment to ethics…and misses a crucial opportunity to stand against and deter misconduct.
>
> **The Limitations of Corporate Compliance**
> (*NY Law Journal*)

With respect to the outcomes of investigations, the CSC told us that they cannot provide information on matters related to human resources in order to protect individual employee privacy. We respect the importance of protecting this confidentiality. However, the overall number of investigations and the outcomes could be reported at a department level, in a manner that does not compromise individual confidentiality. This could be included in annual reports, similar to the reporting of investigations occurring under *The Public Interest Disclosure (Whistleblower Protection) Act*. This allows the department to report that corrective measures and disciplinary action are taken, while still protecting the confidentiality of individuals. We noted an example of this in the annual reports of a Crown Corporation that is also subject to *The Public Interest Disclosure (Whistleblower Protection) Act*.

Our survey of department employees found that only about half of respondents perceive that those who violate ethical standards will be caught or subject to appropriate consequences.

- *51% of respondents believe that employees who act in an inappropriate or unethical manner will be subject to consequences.*
- *Less than half of respondents (46%) are confident that employees who steal from the department will be discovered.*

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[22] Kessler International, *Study shows 79% of employees steal from their employer,* Press Release, August 1999. www.investigation.com

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- *67% of respondents believe management would take appropriate corrective action if instances of ethical misconduct were reported to them.*

> **Recommendation 17:** We recommend that the Department of Finance include in its Departmental Annual Report Instructions the requirement to provide information and consequences regarding not only disclosures under *The Public Interest Disclosure (Whistleblower Protection) Act*, but all investigations conducted in the department over the year, including department-related investigations conducted by the Manitoba Ombudsman's Office.

4.5   Department reports on fraud likely not a complete picture of all incidents

The Fraud Prevention and Reporting Policy requires annual reporting of all incidents of fraud or suspected fraud to the Insurance and Risk Management Branch (IRMB) of the Department of Finance, who prepare a summary report on all government entities. Copies of this summary are forwarded to the Minister of Finance, Internal Audit, the Office of the Auditor General, and the Security Branch of the Department of Infrastructure and Transportation.

We reviewed the summary reports of actual and suspected fraud since 2005/06. The reports show a total of 76 actual and 49 suspected incidents. This includes both core government departments and some Crown corporations and agencies. We noted that some Crown corporations have rigorous ethics programs and more comprehensive reporting, which impacts the total number of incidents.

With respect to departments, the total incidents since 2005/06 are 12 actual and 13 suspected incidents, with the annual breakdowns provided in the table below. We were advised that incidents are reported as actual if a criminal conviction or admission of guilt occurs, otherwise it is reported as suspected.

Year	Actual Incidents	Suspected Incidents
2005/06	1	1
2006/07	1	-
2007/08	-	1
2008/09	4	1
2009/10	1	1
2010/11	2	2
2011/12	2	2
2012/13	1	5
TOTAL	**12**	**13**

Source: IRMB summary reports

The summary report is completed as part of the Fiscal Year-End Financial Reporting Procedures that departments are required to perform. The information provided in the reports likely does not include all incidents, as the purpose of the policy and reporting requirements are not clear, and in past years, not all departments provided reports.

The implementation of Recommendation 3 will address this situation.

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5. Effectiveness of ethics-related policies has not been assessed

In order to remain current and relevant, the effectiveness of ethics policies and procedures should be evaluated on a periodic basis, and updated as necessary. It is also important to periodically assess the state of an organization's ethical climate and the effectiveness of the strategies, communications, training and other processes in achieving the desired ethical state. Assessments require employee input, as the ethical climate within an organization is not always what a policy states it to be, nor what management wants or thinks it to be. Hence, ethics surveys should be conducted in order to understand employee perceptions of the ethics program and where improvements are required.

5.1 Ethics-related policies have not been periodically updated

The Values and Ethics Guide has not been updated since its implementation in 2007. In 2012, after the federal government's Values and Ethics Code for the Public Sector came into force, a comparative review was done of the value statements within the Guide. Comparison was also made to the value statements of 4 other jurisdictions. It was determined that all had "*similar values to those in Manitoba, though titled differently.*" Four recommendations were made as a result of this review, including that "*the CSC examines the Values and Ethics Guide bi-annually to ensure that it provides a current and relevant foundation for the conduct of civil servants.*"

The Conflict of Interest Policy was last revised in 2007. We were advised by CSC that it is currently under review.

The Fraud Prevention and Reporting Policy has not been updated since its implementation in 1996.

> **Recommendation 18:** We recommend that the CSC update all its ethics-related policies on a periodic basis.

> **Recommendation 19:** We recommend that the Department of Finance update the Fraud Prevention and Reporting Policy on a periodic basis.

5.2 Assessing effectiveness of ethics-related policies requires input of employees

An important aspect to creating a healthy and ethical workplace culture is to periodically assess the organization's ethical climate. To do this, and to effectively assess the impact of ethics policies and programs, requires the input of employees. It is for this reason that we conducted a survey of department employees to assess their perceptions with respect to ethics in their workplace

We noted that the CSC conducts an employee engagement survey every 3 years. An assessment of ethical climate could be included on this survey as a method to continue to evaluate and

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monitor progress on these indicators over time. As the most recent employee engagement survey was conducted in 2013, the results of our 2013 ethics survey provided in this report could act as a valid benchmark upon which to continue to assess improvement. We have shared the survey questionnaire with the CSC to facilitate this ongoing monitoring.

Our survey of department employees indicated that just over half of respondents believe that the current policies and practices are working effectively:

- *58% believe that overall the current policies and practices with respect to values and ethics are working effectively in creating an ethical environment within their department. However, almost a quarter of employees (22%) disagreed with this perception, and 21% were neutral.*
- *Further, only half (51%) of respondents reported that their Branch / work unit always makes decisions consistent with the department's values and ethics policies.*
- *64% of respondents felt that the incidence of unethical behaviour overall within their department is relatively infrequent. However 28% of employees disagreed.*

As a final aspect of our survey, respondents were given the opportunity to provide any other comments or suggestions with respect to workplace ethics. A total of 789 respondents took the time to complete this section of our survey and we greatly appreciate the thoughtful commentary and valuable input provided. The most frequent comments were with respect to:

- *Need for more clarity on ethics / More ethics training and communication required (18%)*
- *Issues related to human resource practices and the Civil Service Commission (16%)*
- *Enforcement required / Perception that no point in reporting as no follow-up (15%)*
- *Respectful workplace issues, especially bullying, discrimination (14%)*
- *No one to report issues to / Concerns about management (13%)*
- *Comments related to the survey, both positive and negative (9%)*
- *Specific ethical dilemma or unethical situation provided (8%)*
- *Concerns regarding retaliation, and examples of reprisals faced (8%)*
- *Comments related to the ethical behaviour of politicians and political staff (7%)*
- *Concerns with respect to double standards / Different rules applied to management or favored employees (7%)*
- *Positive comments about ethics in their workplace (7%)*
- *Issues related to conflict of interest situations (5%)*
- *Comments related to budget pressures and resulting impact on ethics (4%)*
- *Comments on The Public Interest Disclosure (Whistleblower Protection) Act / Lack of confidence that will be protected (3%)*

> **Recommendation 20:** We recommend that the CSC assess the effectiveness of their ethics-related policies and procedures by following up on the key indicators measuring ethical climate and workplace culture, which could be incorporated into their employee engagement survey, currently conducted every three years.

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Summary of recommendations and response of officials

General comments from the Manitoba government

The Manitoba government agrees with the findings of the Auditor General in its report on the Manitoba Government's Framework for an Ethical Environment. All of the recommendations contained in the report are in various stages of review or implementation within the Manitoba government. (See responses to the recommendations below.)

Having a tangible and integrated ethical framework is key to the proper operation of government. Civil servants are held to a higher standard of ethical behaviour based on their unique position of trust. As the survey of government employees indicates, ethics is a critically important issue that employees care deeply about and recognize as important. It is reassuring that 94% of government employees surveyed perceive ethics and integrity as critical issues and an important part of fulfilling their work.

The existing ethical framework for the Manitoba government is comprised of the following seven key components: leadership, recruitment, orientation, learning and development, policies and procedures, comptrollership and compliance. Each component ensures civil service employees including senior management, managers, supervisors and front line workers understand the shared responsibility for modeling appropriate ethical behaviour, upholding and promoting the principles of the ethical framework and incorporating values and ethics into their work and their departments. All policies, practices and processes developed by the Civil Service Commission and departments reinforce the ethical framework. The requirement to observe these policies is also contained within the collective bargaining agreements, which state that employees are expected to observe standards of behaviour consistent with the employee's function and role as a civil service employee.

Compliance measures ensure that allegations of unethical behaviour are taken seriously and investigated to the fullest extent. When necessary, disciplinary measures are applied, including the termination of employment as well as referral to law enforcement agencies for criminal investigations and possible charges. *The Public Interest Disclosure (Whistleblower Protection) Act* (PIDA) facilitates disclosure and investigation of significant and serious wrongdoing in the civil service while protecting persons who make disclosures from reprisal.

The existing ethical framework has been effective in ensuring an organizational culture that fosters ethical behaviour by employees, recognizing and preventing potential conflicts of interest, and mitigating the risks of losses incurred due to fraud. The existing ethical framework has served the Manitoba government well in ensuring that employees are mindful and respectful of the higher ethical standards to which they are held and that they act accordingly.

Response to recommendations

To the Civil Service Commission (CSC)

We recommend that:

1. The CSC develop a policy on values and ethics, or a code of conduct, which includes expectations of:
    a. all civil servants.
    b. senior management in overseeing implementation and compliance with the policy.

    > **Response:** The Manitoba government will review the Values and Ethics Guide and related policies to ensure clear expectations of government employees including senior management.

2. The CSC strengthen the Conflict of Interest Policy by including:
    a. specific expectations of civil servants for a broader array of conflict situations and for the submission of conflict of interest declarations.
    b. the responsibilities of senior management in overseeing implementation and compliance with the policy.

    > **Response:** As noted in the audit meetings, the Conflict of Interest Policy is currently under review and the Civil Service Commission will consider the revised draft policy in light of the audit findings and recommendations.

6. The CSC develop and implement procedures to better ensure employees submit conflict of interest declaration forms as required.

    > **Response:** As noted in the audit meetings, the Conflict of Interest Policy is currently under review and the Civil Service Commission will consider the revised draft policy in light of the audit findings and recommendations.

7. The CSC develop and implement follow-up procedures to ensure that all new employees complete the online corporate orientation program as required.

    > **Response:** The Civil Service Commission will develop and implement follow-up procedures to ensure new employees complete the online corporate orientation.

10. The CSC include fraud awareness training in its strategy for providing ethics-related training to all employees.

    > **Response:** Fraud awareness training will be included as part of a corporate strategy for providing ethics related training.

11. The CSC require periodic reports from departments on their implementation of ethics-related policies, including the Values and Ethics Guide. Upon receipt of the reports, we recommend that the CSC proactively provide support to those departments with less-developed implementation processes.

Response: The Manitoba government will review the Values and Ethics Guide and related policies in light of the audit findings and recommendations to consider areas where the Civil Service Commission can provide additional support to departments on their implementation of ethics related policies.

12. The CSC amend the Conflict of Interest Policy to require that all employees update their conflict of interest declaration forms on a periodic basis, preferably annually.

   Response: As noted in the audit meetings, the Conflict of Interest Policy is currently under review and the Civil Service Commission will consider the revised draft policy in light of the audit findings and recommendations.

14. In addition to the disclosure procedures under *The Public Interest Disclosure (Whistleblower Protection) Act*, the CSC develop and implement a process to enable employees to report concerns of ethical misconduct, including anonymous disclosures.

   Response: The results of the ethics survey indicated that the vast majority of employees (84%) are most likely to report ethical misconduct or suspected fraud to their:
   • direct supervisor,
   • manager,
   • senior management of the department,
   • union or
   • human resources.

   Only five percent of employees report that they would be likely to report ethical misconduct to the independent offices such as the Ombudsman's Office or the Office of the Auditor General. This suggests that the creation of a separate disclosure process is not likely to be utilized by employees.

   Management within the Manitoba government recognize the responsibility to take appropriate action to address concerns brought to their attention. If a matter is determined to be outside the scope of PIDA, management will review the allegation and where appropriate, investigate the matter. This process is undertaken for both signed and anonymous complaints.

18. The CSC update all its ethics-related policies on a periodic basis.

   Response: The Civil Service Commission will review its ethics related policies on a periodic basis and update as appropriate.

20. The CSC assess the effectiveness of their ethics-related policies and procedures by following up on the key indicators measuring ethical climate and workplace culture, which could be incorporated into their employee engagement survey, currently conducted every three years.

   Response: The Civil Service Commission will consider methods and measures to assess the effectiveness of ethics related policies and procedures.

Web version

To the CSC and departments

We recommend that:

8. The CSC and departments utilize more communication methods to ensure employees throughout the civil service are aware of and understand the ethical requirements.

    Response: The Civil Service Commission and departments will consider a variety of communication methods as appropriate to ensure employees are aware of and understand the ethical expectations and requirements.

9. The CSC, in conjunction with departments, develop and implement a strategy for providing ethics-related training to all employees. The strategy should require that ethics-related training be provided to employees on an ongoing and periodic basis, and that training be provided to management in how to handle any ethical issues or violations brought forward by employees.

    Response: The Civil Service Commission and departments will work together to develop and implement a strategy for providing ethics related information and training to employees. The development of the strategy will be completed prior to the end of the 2014/15 fiscal year.

15. The CSC and departments track and report all disclosures of ethics-related matters that do not fall under the scope of *The Public Interest Disclosure (Whistleblower Protection) Act,* and are investigated through other means.

    Response: The Civil Service Commission on behalf of its client departments currently tracks disclosures that are investigated jointly by the representatives of the department and Human Resource Operations (outside of the scope of PIDA.) The Civil Service Commission will consider means of improving the tracking systems.

16. The CSC and departments track investigations by type.

    Response: The Civil Service Commission on behalf of its client departments currently tracks disclosures that are investigated jointly by the representatives of the department and Human Resource Operations (outside of the scope of PIDA.) The Civil Service Commission will consider means of improving the tracking systems.

To the Department of Finance

We recommend that:

3. The Department of Finance conduct a comprehensive review of the Fraud Prevention and Reporting Policy and update the policy as needed.

    Response: The Department of Finance, Insurance and Risk Management Branch (IRMB) will conduct a comprehensive review of the Fraud Prevention and Reporting Policy during the 2014/15 fiscal year and will update the Policy as necessary. IRMB will also provide the Fraud Summary Report to Deputy

Ministers to enhance awareness of any fraudulent activities within their departments.

4.   The Department of Finance develop and implement a communication plan to better educate civil servants on the purpose of the Fraud Prevention and Reporting Policy and their related obligations.

> **Response:** The Department of Finance, Insurance and Risk Management Branch (IRMB) will hold information sessions for departments and agencies on the Fraud Prevention and Reporting Policy during the 2014/15 fiscal year. IRMB will also modify the annual Fraud Summary Report to have the signatory agree to terms of the Financial Administration Manual Fraud Policy and attest that any fraudulent activity has been communicated with senior management. Furthermore, the Comptrollership Framework User Guide section on Fraud Policy/Awareness will also be updated to include a link to the policy, including an introduction to its purpose.

13. The Department of Finance require that departments conduct internal fraud exposure evaluations and use the results to assess the sufficiency of existing controls and management oversight to prevent fraud.

> **Response:** During the history of the IRMB's administration of the Fraud Prevention and Reporting Policy, the overall incidents of reported and suspected fraud within the Manitoba government are low. The implementation of SAP and Governance Risk and Compliance systems have reduced fraud exposures, and areas such as Driver Licensing that handled significant amounts of cash on a regular basis have been transferred to Manitoba Public Insurance.
>
> IRMB believes the Finance Comptrollership Framework document provides a good sample of evaluation questions within Fraud Policy/Awareness Control Self Assessment Questionnaire to provide guidance to departments and agencies for assessing risk of fraud. This questionnaire will be included as part of the year end reporting requirements for submission to IRMB. The Comptroller's Division will also adjust the management representation letter to require departments to conduct such a fraud exposure evaluation.

17. The Department of Finance include in its Departmental Annual Report Instructions the requirement to provide information and consequences regarding not only disclosures under *The Public Interest Disclosure (Whistleblower Protection) Act*, but all investigations conducted in the department over the year, including department-related investigations conducted by the Manitoba Ombudsman's Office.

> **Response:** The Civil Service Commission will consider reporting on investigations conducted in client departments similar to the manner of reporting for PIDA.

19. The Department of Finance update the Fraud Prevention and Reporting Policy on a periodic basis.

Web version

> **Response:** The Department of Finance will review the Fraud Prevention and Reporting Policy on a periodic basis and update as appropriate.

To the Department of Infrastructure and Transportation, Procurement Services Branch

We recommend that:

5. The Procurement Services Branch of Manitoba Infrastructure and Transportation develop and implement the "Ethics in Procurement" chapter of the Procurement Administration Manual.

> **Response:** The Procurement Services Branch of the Department of Infrastructure and Transportation will complete the referenced sections of the Procurement Administration Manual.

Web version

Appendix A: Values and Ethics Guide

Manitoba 🐃

Values and Ethics Guide

Our Role

The public service plays an essential role in our democratic way of life, faithfully serving the people of Manitoba through their duly elected government.

The public service affects the day-to-day lives of Manitoba communities and individuals. Civil servants deliver a wide range of services for the benefit of the people of Manitoba and, in doing so, endeavor to make a positive contribution to the quality of life of all Manitobans.

Civil servants provide advice on options available to achieve the government's policies and the consequences of each option. We provide that advice in a complete, honest, and candid manner without fear or favour. Civil servants are then responsible to implement the directions of the government within the law and the Constitution.

All civil servants hold a unique position of trust. Our actions, directly or indirectly touch the lives of all Manitobans. Whether providing advice, developing policy or delivering programs or direct services, civil servants will:

- Act in the public interest
- Act with integrity
- Act with respect for others
- Act with skill and dedication

Application

The values and ethics guide of the Manitoba civil service has been developed to:

- Provide a guide for conduct by Manitoba civil servants and support them in all of their work-related and professional activities.
- Contribute to maintaining and enhancing public confidence in Manitoba's civil service.
- Strengthen respect for, and appreciation of, the role played by Manitoba's civil service within our province.

The Values and Ethics Guide applies to all civil service employees as defined by _The Civil Service Act_ and complements existing legislation, policies and guidelines.

If you are unsure how this guide applies to you, please discuss with your manager.

Web version

Appendix A (cont'd)

Putting our Values to Work

Act in the Public Interest

Manitoba's civil servants act in the public interest by:

- Resolving any conflict between our personal or private interests and our official duties in favour of the public interest
- Upholding both the letter and the spirit of the law
- Maintaining the confidentiality of information gained as a result of our work
- Being sensitive to the political process and acting in accordance with the traditions regarding political impartiality
- Being a careful steward of public resources and using them in an efficient, responsible and accountable manner

In Practice:

Public trust
In the performance of our responsibilities, the public interest is paramount.

Conflict of interest
It is essential that we do not, by our actions, place ourselves in a conflict of interest. The *Conflict of Interest Policy* in *Principles and Policies for Managing Human Resources* provides direction on conduct expected of civil servants and how to deal with situations to prevent a conflict of interest. The Conflict of Interest Policy seeks to protect the public interest, the organization and civil servants. The intent is to prevent employees from using public office for private gain.

Confidentiality and the use of information
We must exercise discretion in our use of confidential information acquired by virtue of our employment and ensure that the privacy of individuals and their information is maintained. We must be aware of and observe the confidentiality provisions of our Oath of Office as well as those contained in legislation, such as *The Freedom of Information and Protection of Privacy Act* (FIPPA) and *The Personal Health Information Act* (PHIA).

Political impartiality
We are required to provide the same support to the elected government regardless of which political party is in office. We should be aware of our own personal views and ensure they do not influence the way in which we carry out our duties. All advice to government must be based on an accurate representation of the facts and the possible consequences of the options available.

Use of public money, property, goods or resources
We are required to use all resources, including human, financial and technological resources, efficiently and effectively for the public benefit. As a manager or as an employee, we strive to ensure that the public receives maximum value for each tax dollar spent.

Web version

Appendix A (cont'd)

Political rights

With the exception of deputy ministers, we have the right to be politically active, but we are reminded of our responsibilities to maintain confidentiality. While we are permitted to seek nomination, support a candidate or political

party and speak or write on behalf of the candidate or political party, we are not permitted to solicit funds for a provincial or federal political party or candidate. However, we must follow the guidelines of the Civil Service Commission when doing so. See Section 44 of _The Civil Service Act_.

Public comment

Civil servants have the same rights of free speech and independence in the conduct of their private affairs as other members of the public. However, civil servants also have a duty to ensure that any public comment on government policy is appropriate to the position they hold and is compatible with the need to maintain a politically impartial

Act with Integrity

Manitoba's civil servants act with integrity by:

- Acting honestly
- Conducting ourselves in a manner that will not reflect adversely on the public sector, our department or other public sector employees
- Observing all legislative requirements, and following lawful and reasonable instructions
- Taking responsibility for our advice and actions

In Practice:

Personal conduct

We are expected to exhibit honesty, integrity and the highest standards of personal conduct. We should respect and obey all laws and avoid any activities which negatively impact the government's interests, property, security, reputation, employee health and safety or the confidence of the public. This applies to both on-duty and off-duty conduct. (Refer to the Criminal Charges Policy for additional information.)

Creating a fair, equitable and impartial environment.

Our decisions affect other employees, clients and the public and so must be fair, consistent and equitable. Fairness requires that our decisions are based on relevant information and are honest, open and impartial. Equity is being fair and just to all people, and correcting or supplementing practices to redress disadvantages experienced by individuals. Equity may mean treating someone differently to provide an equal chance or opportunity.

Act with Respect for Others

Manitoba's civil servants act with respect for others by:

- Treating the public and colleagues with respect, courtesy and dignity
- Treating the public and colleagues fairly and consistently
- Valuing and using diversity in our workplace
- Contributing to a positive work environment by being self aware, professional and tactful

Web version

Appendix A (cont'd)

In Practice:

Valuing diversity

A strong and effective civil service is enriched by, and open to, the exchange of different perspectives and ideas. This creates a foundation for understanding and building relationships, and results in the development of better policies and service delivery. We value the diversity of our fellow employees and strive to reflect the diversity of Manitobans. See the Civil Service Commission's Valuing Diversity: An Equity Approach handbook for further information.

Respectful workplace

It is our collective responsibility to ensure that we contribute to, and maintain a respectful workplace environment that is free from harassment and discrimination. A respectful workplace promotes courteous and professional conduct, and expects staff to communicate effectively and work together to meet organizational goals. If you are unsure on how to deal with disrespectful behaviour occurring in your workplace, follow the responsibilities outlined in the government's Respectful Workplace Policy.

Services to the public

We are committed to ensuring all contact with the public is prompt, courteous, respectful and contributes to making the experience of dealing with government as satisfying and constructive as possible.

Act with Skill and Dedication

Manitoba's civil servants act with skill and dedication by:

- Providing responsive, effective and efficient services to the community that are flexible and can adapt quickly to changing demands
- Giving our best to meet performance standards and other organizational requirements
- Promoting excellence in the civil service by maintaining and improving our knowledge, skills, abilities and competencies as well as assisting in enhancing those of our colleagues
- Committing to a process of continual learning and innovation

In Practice:

Citizen-centered service

In delivering government programs and services, we are committed to providing quality service to the public. In doing so, we are continually reviewing ways to improve our programs and services in response to the public's changing needs. Whether it is through the use of new technology, forging new partnerships, or streamlining our processes, we will ensure we are flexible and adapt quickly to change. Serving the public to the best of our ability is an essential role of the civil service.

Merit

Selection for appointment, promotion or transfer shall be based on the merit principle as outlined in *The Civil Service Act*. The goal of this principle is to ensure that the civil service is comprised of well qualified employees with abilities, skills, training and competence to perform at their initial level of appointment and as far as is reasonably possible to progress in a career within the civil service. This requires that we maintain and develop our skills on an ongoing basis to ensure that we meet the demands of our continuously changing work environment.

Web version

Manitoba

Conflict Of Interest

May 2007

Policy Statement

The Province of Manitoba supports the rights of civil servants to be involved in community projects and activities as citizens of the community. This is balanced with the recognition that civil servants participate in Government activities including making decisions affecting significant numbers of Manitobans, and have knowledge of a wide range of confidential information. As a result they are expected to place the public interest first in carrying out their duties. Part of protecting the public interest involves avoiding or effectively resolving conflict of interest situations where private or personal interests influence, or appear to influence, the performance of their duties and responsibilities. Ultimately, these situations must be resolved in favour of the public interest.

Employees must not, directly or indirectly:

- Place themselves in a situation in any official matter where there is a private or personal interest that would raise questions about how objective their actions or decisions are in the matter.
- Undertake outside employment, a business transaction or other private arrangement for personal profit or have any financial or other personal interest that is, or may appear to be in conflict with the performance of their duties.
- Seek or receive personal or private gain by granting preferential treatment to any persons while performing the employee's duties.
- Seek or accept personal or private gain from the use of information acquired during the course of their duties that is based upon confidential or non-public information.
- Use or permit the use of government property to promote or serve their personal or private interests, unless they are authorized to do so.
- Solicit or accept fees, gifts or other benefits that are connected directly or indirectly with the performance of their public service duties, from any individual, organization or corporation, other than:
  - o the normal exchange of gifts among friends;
  - o the normal exchange of hospitality between persons doing business together;
  - o tokens exchanged as part of protocol;
  - o the normal presentation of gifts to persons participating in public functions.

Employees should be aware that legislation and policies specific to their department or agency may have additional conflict of interest provisions. Therefore, employees and employers have a shared responsibility to ensure they are familiar with the provisions of the legislation (eg. The Legislative Assembly and Executive Council Conflict of Interest Act) and policies applicable to their department.

Web version

Appendix C: Respectful Workplace Policy

Respectful Workplace Policy

Statement Of Commitment

The Province recognizes its responsibility to build and maintain a diverse respectful workplace, where all employees enjoy an environment in which the dignity and self-respect of every person is valued and which is free of offensive remarks, material or behaviour.

We recognize that workplace conflicts and disrespectful behaviour can jeopardize an individual's dignity, self-esteem and well being and possibly undermine work relationships, friendships and productivity.

A truly respectful workplace requires the cooperation and support from each and every employee in the organization. Everyone has a responsibility to set a positive example and behave in a manner, which will not offend, embarrass or humiliate others, whether deliberate or unintentional.

The principle of fair and respectful treatment is a fundamental one that the Province commits to uphold for its employees and members of the public. This same commitment must come from our employees, who are personally responsible at all times for their behaviour and conduct. Together we can ensure that every individual is treated respectfully and courteously.

Policy

Every employee can expect to be treated respectfully in the workplace. Every employee has the responsibility to refrain from participating in behaviour that is, or could be perceived to be disrespectful in nature.

Respectful workplace office

As noted in the CSC's 2012/13 Annual Report, the Respectful Workplace Office (RWO) is intended to help civil servants in all areas of the Manitoba government understand their responsibility in creating positive working environment and coaches individuals and groups in addressing issues/behaviours that fall under the Respectful Workplace policy. The RWO is housed with the Employee Assistance Program and provides training and education related to the policy, as well as confidential assistance, consultation and advice to employees in resolving workplace issues in a fair and respectful manner. This service is provided free of charge to departments and employees.

Appendix C (cont'd)

The Respectful Workplace Policy was adopted in 2007, as one aspect of the Civil Service Renewal Strategy. It states that: *Every employee can expect to be treated respectfully in the workplace. Every employee has the responsibility to refrain from participating in behaviour that is, or could be perceived to be disrespectful in nature*. It further notes that the Province recognizes its responsibility to build and maintain a diverse respectful workplace, where all employees enjoy an environment in which the dignity and self-respect of every person is valued and which is free of offensive remarks, material or behaviour ...The principle of fair and respectful treatment is a fundamental one that the Province commits to uphold for its employees and members of the public. This same commitment must come from employees, who are personally responsible at all times for their behaviour and conduct.

In 2012/13, the RWO delivered 58 customized education sessions with 2353 employees participating; undertook 160 consultation sessions with employees, managers and human resource staff; and dealt with 45 new cases involving 188 employees. These new cases involved complainants who alleged the following problem categories:

- Inappropriate behaviour (31%)
- Work Environment (19%)
- Communication style (18%)
- Harrassment/Bullying (16%)
- Abuse of Authority (10%)
- Other (6%)

The resolution of these cases included education in all cases, mediation (10), workplace assessment/intervention (10), and individual coaching (25).

Appendix D: Fraud Prevention and Reporting Policy

Financial Administration Manual
Assets Management
Fraud Prevention and Reporting

Manitoba
Finance
Policies and Procedures

To ensure the reporting, investigation and handling of all incidents where a loss has occurred as a result of an offence or illegal act involving public assets or assets held in trust by the Province of Manitoba, the following fraud prevention and reporting policy has been developed.

APPLICABILITY

This policy applies to all employees, agents and contractors of Province of Manitoba departments and agencies, and is to be used as a guideline by all Special Operating Agencies (SOAs), Commissions and Crown Corporations of the Province.

This policy is applicable to all intentional acts, or failures to act, which are carried out with the intent to deprive the Province of Manitoba of its rights, or which result in increased expenses or loss of assets by the Province, including the following:

- Theft, misappropriation or embezzlement (or attempt thereof), including failure to return government property or information;

- Breach of trust by a public officer;

- False or fraudulent claims for any government benefit, grant contribution or payment;

- Conversion or misuse of public funds, information, intellectual property, general property or services for personal gain;

- Any fraud or illegal act in the contracting process, including, but not limited to, bid rigging, price fixing, padding of contracts, kickbacks, etc.

This policy does not apply to acts of negligence, which do not result in a direct or indirect benefit to the negligent party (or parties).

POLICY

1. All Manitoba Government entities must ensure that a copy of this policy is circulated and posted in all offices, in order that all employees are informed of what constitutes fraud, and are made aware that all persons engaging in fraudulent activities will be subject to disciplinary measures and/or legal charges.

2. All Manitoba Government entities must take reasonable measures to minimize the risks of fraudulent activity. This includes conducting an internal fraud exposure evaluation, utilizing additional resources such as the Security Branch, Department of Infrastructure and Transportation, and the Insurance and Risk Management Branch, Department of Finance, if required.

3. All Manitoba Government entities must establish and apply appropriate financial and administrative procedures and practices, including physical protection measures, to ensure the safe custody and accounting of all public assets for which they are responsible, including assets held in trust.

   NOTE: The financial and administrative procedures and practices specified in the Financial Administration Manual (FAM) and the General Manual of Administration (GMA) are to be used as a guide in this regard.

Appendix D (cont'd)

$\mathcal{F}$inancial $\mathcal{A}$dministration $\mathcal{M}$anual
Assets Management
Fraud Prevention and Reporting

Manitoba
Finance
Policies and Procedures

4. All Manitoba Government entities must monitor the effectiveness of their financial and administrative procedures and practices, including physical protection measures, on a regular basis, and make changes and revisions as necessary to protect assets in their care. Recommendations made by central auditing or monitoring entities should be considered and implemented as necessary.

5. All Manitoba Government entities should minimize the storage of cash or negotiable securities on their premises. In instances where this cannot be avoided, ensure that cash and securities are kept in locked safes or vaults resistant to burglary and fire.

    NOTE: The use of locked safes and/or vaults should be considered when cash on hand exceeds $500.00. The Security Branch, Department of Infrastructure and Transportation and the Insurance and Risk Management Branch, Department of Finance can provide further information regarding classification of safes and vaults.

MINIMIZING LOSS FOLLOWING FRAUDULENT ACTIVITY

1. When a loss occurs due to a fraudulent activity, immediate steps should be taken to prevent further loss by altering the conditions that contributed to the original loss (e.g., upgrading of office security measures, altering cash handling practices, re-assigning cash handling staff, etc.)

2. Disciplinary action against the individual(s) involved should be taken only after consultation with the Deputy Minister or head of the government entity and the Human Resource unit.

3. Legal action against the individual(s) involved should be taken only after the Deputy Minister or head of the government entity or their designate has consulted with the police.

4. It is recommended that law enforcement authorities and insurance company representatives (if applicable) be consulted early in the investigation to determine how recoveries from the person(s) responsible can be maximized.

5. All efforts must be made to recover the loss, including making recoveries from the person(s) responsible.

Web version

Appendix E: Survey methodology & data tables

The ethical climate within an organization is not always what a policy states it to be, nor what management wants or thinks it to be. Hence, ethics surveys within organizations are utilized to ensure that the actual ethical climate that employees experience on a day-to-day basis is aligned with the desired ethical climate stated in policy. By identifying gaps between the desired and actual ethical climate, a survey can be useful for developing action plans to bridge identified gaps and perceived weaknesses.

As one aspect of this review, we conducted an ethics survey of employees within the 18 Government of Manitoba Departments. The purpose of the survey was to obtain civil servants' perceptions of ethics in their workplace and whether they feel supported in maintaining ethical standards. The mailing list was developed using the government email addresses (@gov.mb.ca) of each department, and included Special Operating Agencies within departments but did not include independent Agencies, Boards and Commissions. Government of Manitoba employees with email addresses at the Legislative Assembly (@leg.gov.mb.ca) were also excluded, as well as contract employees and employees within central government agencies such as the Civil Service Commission and Treasury Board Secretariat.

In order to ensure the confidentiality and anonymity of all respondents, we retained an external research firm, Probe Research Inc., to conduct the survey on our behalf. We sent an introductory email to all Department employees explaining the purpose of the survey and introducing Probe Research. Probe Research administered the survey via its online, web-based survey platform.

The survey was officially open for completion from November 27, 2013 to December 9, 2013. Probe Research initially sent a secure link to the survey to all email addresses, followed by a reminder email on December 4, 2013 to encourage participation. Survey responses were accepted until December 13, 2013 to accommodate any late submissions. During the fielding window, 16 individuals asked to be removed from the survey and 2 individuals asked to be added to the survey.

The survey questionnaire was designed to be completed in less than 10 minutes. All questions were completely voluntary, which enabled respondents to skip over any areas of inquiry they did not wish to answer. Only minimal demographic information was collected: employment position and years of service. Opportunity was provided for additional commentary at the discretion of the respondent. As the survey was not designed to be a vehicle for the reporting of ethical misconduct, a list of contacts was provided at the end of the survey to allow employees to report any unethical behaviour to the appropriate authority.

Web version

Appendix E (cont'd)

We are pleased that 40% of employees (5967) felt comfortable enough to view and participate in the survey, with 33% (4912) providing complete or partial responses. The following table reveals the overall population and participation rate:

The overall response rate by department is provided below. We were pleased to note that a good response rate was received from all departments. Further, a close proportional representation by department was obtained as revealed by the grey shaded weighting percentages provided below.

Activity	# of Employees
Provided responses to the survey	4,912
Viewed the survey only	1,055
Did not access the survey	9,003
Total Survey Invitations Sent:	**14,970**
Asked to be removed from survey	<16>
Asked to be added to survey	2
Total Population:	**14,956**

Distribution of Respondents by Department					
Department*	Number in Sample	Number of Respondents	% of all Sample	% of all Responses	OVERALL Response Rate
Aboriginal & Northern Affairs	73	33	<1%	1%	**45%**
Agriculture, Food and Rural Initiatives	431	150	3%	3%	**35%**
Children & Youth Opportunities	106	40	1%	1%	**38%**
Conservation & Water Stewardship	940	400	6%	8%	**43%**
Culture, Heritage & Tourism	189	102	1%	2%	**54%**
Education / Advanced Education & Literacy	465	226	3%	5%	**49%**
Entrepreneurship, Training & Trade	485	208	3%	4%	**43%**
Family Services	2,368	717	16%	15%	**30%**
Finance	325	154	2%	3%	**47%**
Health	1,558	364	10%	7%	**23%**
Healthy Living, Seniors & Consumer Affairs	351	162	2%	3%	**46%**
Housing & Community Development	624	204	4%	4%	**33%**
Immigration & Multiculturalism	78	33	<1%	1%	**42%**
Infrastructure & Transportation	2,113	659	14%	13%	**31%**
Innovation, Energy & Mines	399	134	3%	3%	**34%**
Justice	3,936	1073	26%	22%	**27%**
Labour	278	124	2%	3%	**45%**
Local Government	251	122	2%	2%	**49%**
Unidentified Department	2	7			
Asked to be removed from survey	<16>				
TOTAL	**14,956**	**4,912**			**33%**

*Note that at the time of our survey, a reorganization and renaming of Departments occurred. Our survey was conducted under the previous Department names as reported above.

Web version

Appendix E (cont'd)

DATA TABLES

The following data tables list all the statements and questions asked on the questionnaire. Percentages may not add up to 100 due to rounding.

1.   Ethical Policies and Practices

The following is a series of statements about ethics-related policies and practices in your current work environment.	Respondents		
	Disagree / Disagree Strongly	Neutral	Agree / Agree Strongly
	Percentage (%)		
Ethics and integrity are critical issues in the public sector, and an important part of fulfilling my work as a public servant.	2	4	94
My Department has made available sufficient policies and guidelines regarding the ethical standards of behaviour required of me in my work.	14	18	68
Discussions about values and ethics occur in my workplace.	30	23	47
Employees in my Department are clear on the ethical values expected in performing their work.	24	22	55
If I am faced with an ethical dilemma, I know where I can go for help in resolving the situation.	21	14	65
Ethical behaviour is discussed and assessed during my performance review.	43	34	22
My Branch / work unit always makes decisions consistent with the Department's values and ethics policies.	23	26	51
My direct supervisor/manager supports me and my colleagues in conducting our work in an ethical manner.	12	13	75
Senior managers in my Department demonstrate the importance of integrity and lead by example in ethical behaviour.	25	18	57
Discussions on conflict of interest and identifying potential issues occur in my workplace.	25	22	54
I have been provided adequate training to know what to do if a coworker (or direct report) approaches me with an ethical dilemma or conflict of interest situation.	38	22	40
I have felt that a coworker was in a conflict of interest in conducting their work.	42	26	32
I have never felt pressure from management or my coworkers to violate ethical standards or behave in an unethical manner.	16	13	70
Overall I believe the incidence of unethical behaviour within my Department is relatively infrequent.	18	18	64

Web version

Appendix E (cont'd)

## 2.	Training

TRAINING	
Would like to receive training or further information in the following ethics-related matters:	**Percentage (%)**
Decision-making and critical thinking skills	59
Ethics training specific to my Department	57
Conflict of interest issues specific to my Department	53
Respectful workplace issues, such as bullying, harassment, etc.	48
Fraud awareness training and identification of risk within my Department	34
Other? *(167 respondents provided comments)*	5

## 3.	Ethical Oversight and Reporting

The following statements deal with managing and reporting ethics-related issues in your Department.	Respondents		
	Disagree / Disagree Strongly	Neutral	Agree / Agree Strongly
	Percentage (%)		
Management proactively monitors the workplace and holds employees to appropriate ethical standards.	26	28	46
I feel comfortable talking to my supervisor/manager about ethical issues which arise within my work environment.	19	12	69
I am certain that employees who steal from the Department will be discovered.	28	27	46
I would say the type of work done in my workplace is at high risk for misconduct or fraudulent activity.	50	25	25
I believe management would take appropriate corrective action if instances of ethical misconduct were reported to them.	18	15	67
I would not feel comfortable reporting ethical misconduct or suspected improprieties, even if I became aware of incidents in my workplace.	55	19	27
Employees who act in an inappropriate or unethical manner will be subject to appropriate consequences.	26	23	51
Senior management is not held accountable for their own ethics violations.	37	30	33
I am confident that I would be protected from reprisals if I reported an issue under *The Public Interest Disclosure (Whistleblower Protection) Act.*	37	33	29

Web version

Appendix E (cont'd)

4. Reporting

REPORTING	
Who would you be most likely to report ethical misconduct or suspected fraud to?	**Percentage (%)**
Your direct Supervisor or Manager	68
Unsure	10
Senior management of your Department	9
Your Union	4
Your Department's Human Resources officer or the Civil Service Commission	3
The Respectful Workplace Advisor	1
The Employee Assistance Program	1
The Manitoba Ombudsman's Office	1
The Office of the Auditor General of Manitoba	1
Other? *(128 respondents provided comments)*	3
Who would you be most likely to contact you were to make a disclosure under The Public Interest Disclosure (Whistleblower Protection) Act?	**Percentage (%)**
Your Supervisor	58
Your Department's Designated Officer	21
The Manitoba Ombudsman's Office	21

REPORTING			
	Yes	**No**	**Unsure**
Do you know who your Department's Designated Officer to make a disclosure under *The Public Interest Disclosure (Whistleblower Protection) Act*?	12	72	16

Web version

Appendix E (cont'd)

5.   Awareness of Unethical / Fraudulent Activity

AWARENESS OF UNETHICAL / FRAUDULENT ACTIVITY			
	Yes	**No**	**Unsure**
Have observed or are personally aware of at least one type of ethical lapse or fraudulent activity within your workplace in the past year.	32	53	15
Reported these instances of ethical misconduct to management.	53	25	22
Experienced some form of retaliation as a result of reporting the misconduct	29	57	15

AWARENESS OF UNETHICAL / FRAUDULENT ACTIVITY	
There may be a number of reasons why individuals do not report instances of ethical misconduct. Please check all the reasons that may have influenced your decision:	**Percentage (%)**
You did not feel it would be appropriately dealt with	59
You were afraid of retaliation from management	53
You did not want to become involved in the situation	46
You were afraid of retaliation from coworkers	45
You were not sure if the issue was serious enough to report	37
You were not sure who to report it to	32
Unsure	5
You spoke to the person directly about the issue	11
Other? *(116 respondents provided comments)*	18

Web version

Appendix E (cont'd)

6.   **Risk Assessment**

The following lists a wide variety of unethical behaviours and fraudulent activities that may occur in a workplace. How would you assess the risk of these types of activities occurring in your workplace?	Likelihood		
	Disagree / Disagree Strongly	Neutral	Agree / Agree Strongly
	Percentage (%)		
Misuse of work time by employees or misreporting time worked	36	16	49
Harassment or inappropriate conduct in the workplace	38	18	44
Conflict of interest situations	44	23	34
Theft of government property or resources	51	17	32
Violations of health or safety regulations	51	21	29
Privacy violations or misuse of confidential government information	56	19	25
Discrimination based on race, colour, gender, age or other diversity categories	60	16	24
Fraudulent expense account claims	63	16	21
Monetary gain as a result of a government position or activity	71	16	14
Giving or accepting bribes or kickbacks	74	13	12
Inaccurate financial reporting	68	21	10
Falsifying organizational or financial records	75	18	8
Buying personal items on government credit cards	80	12	8
Contract or procurement fraud	73	20	7
Theft of cash	85	10	6

The survey provided an opportunity for respondents to add any other unethical or fraudulent behaviour that they felt would be very likely to occur in their workplace. A total of 578 respondents provided comments.

7.   **Overall Assessment**

Your final assessment regarding your Department's ethical environment:	Respondents		
	Disagree / Disagree Strongly	Neutral	Agree / Agree Strongly
	Percentage (%)		
Overall, I believe the current policies and practices with respect to values and ethics are working effectively in creating an ethical environment within my Department.	22	21	58

Web version

Appendix E (cont'd)

8.   General Comments

The survey provided an opportunity for respondents to add any further comments or suggestions about workplace ethics. A total of 789 respondents provided comments.

9.   Demographics

RESPONDENT DEMOGRAPHICS			
Position	Senior Management	Mid- Management	Non- Management
Category that best describes your position:	5%	20%	72%
Length of Service	Less than 3 Years	3 -15 Years	More than 15 Years
How long have worked in Manitoba civil service:	17%	49%	34%

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