



OFFICE OF THE
AUDITOR GENERAL
MANITOBA



**Legislative Audit:
Serving the Public Interest**

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Introduction: The Need for Independent Audit

The way governments spend public money is of great importance to Canadians. In Canada, as in other parliamentary systems, control of the public purse is carried out on behalf of the people by their elected representatives, the members of Legislative Assemblies.

While it is up to governments to draft budgets and spending estimates, they may neither collect nor spend taxpayers' money without the express approval of Legislative Assemblies. And after governments spend the money entrusted to them, they are obligated to report back to the Assemblies on how they used the money. This obligation to answer for actions taken, forms the basis of an accountability relationship between governments and their Legislative Assemblies.

As the governing body in this accountability relationship, each Legislative Assembly is responsible for:

- overseeing the activities of government, and
- holding government accountable for its handling of public money.

To assist this process, the government provides its Assembly with information about the use of the public funds entrusted to it. At the same time, however, the Assembly needs assurance that this information is appropriate, credible and complete, and that it accurately reflects the results of the

activities of government. The way in which it obtains such assurance is through an independent audit function set up to assist it in fulfilling its oversight role.

The audit function is therefore a critical link in the chain of public accountability and a vital part in the democratic process of responsible government.

Credibility: The Value of Legislative Audit

Credible: "believable or worthy of belief" (Canadian Oxford Dictionary)

Each Legislative Assembly in Canada uses the services of a single auditor (referred to in this paper as the Legislative Auditor) to assist it in discharging its oversight responsibilities. Historically, the Assemblies have understood well the need for a strong, independent Legislative Auditor and recognized the position's unique and vital contributions to the public accountability process.

The first Legislative Auditor in Canada was appointed in Ontario in 1869. Though his functions were quite different from those of today, he was still expected to report on whether public money was spent the way the Legislative Assembly intended.

Over the next 100 years, Legislative Auditors were appointed in all senior government jurisdictions in this country. At that time, their roles evolved from that of looking primarily at the accuracy of financial statements

and the propriety of government spending, to the more complex task of providing Legislative Assemblies with the information needed to hold governments accountable for all aspects of their performance, including the cost-effectiveness of their operations.

A notable event in that evolution occurred around 1977 when the mandate for the Auditor General of Canada was significantly broadened by legislation passed in the federal Parliament. Many provinces closely followed with similar legislation of their own.

From the view of legislators, the value of Legislative Auditors has not been simply in their technical expertise, but also in their independence - an independence that is bolstered by comprehensive legislative mandates. Their ability to conduct audits that may not please those in government, as well as their responsibility to report their findings publicly, has made the role of Legislative Auditors indispensable.

They have subjected the operations of the public sector as a whole to regular, independent examination in support of Legislative Assemblies; and they have acted first and foremost in the public interest, becoming acknowledged champions of open and transparent government.

A useful discussion about Legislative Auditors and their unique and vital role in the public accountability process revolves around four themes:

- mandate,
- independence,

- reporting relationship with Legislative Assemblies, and
- expertise in public sector matters.

Each of these is discussed in the remaining sections. Where appropriate, comparisons have been made to both internal and private sector auditors, professionals who also have a role in the public sector auditing regime.

Independence: The Cornerstone of Legislative Auditing

Audit is a process that is superimposed on the accountability relationship between a Legislative Assembly and an executive government. Legislative Auditors serve primarily the interests of their respective Legislative Assemblies, whose job it is to oversee the performance of executive governments.

Independence - the state of being impartial and free from bias and conflicts of interest - is the cornerstone of auditing. Anything that impedes an honest, straightforward and sincere approach to the performance of an audit will reduce public confidence.

In Canada, Legislative Auditors enjoy the confidence of legislators and the public, and their independence is, for the most part, unquestioned. The fact that this independence is largely backed by legislation instills public confidence in their work.

For instance, were a legislative audit to reveal significant matters critical of a government, those matters would, by law, have to be made known to

legislators and the public. At the same time, Legislative Auditors have the protection of their Legislative Assemblies because they are Officers of those Assemblies. This distinguishes them from other audit professionals working in the public sector.

Independence can be viewed from two perspectives:

- independence in fact (or real independence), and
- independence in appearance (or perceived independence).

Independence in fact refers to the achievement of actual freedom from bias, personal interest or susceptibility to undue influence or pressure.

Independence in appearance refers to the absence of any circumstances that might suggest to others a compromised independence.

Put another way: independence in fact is of little value if those who read an auditor's report don't perceive that independence exists.

To be seen as independent, Legislative Auditors have been granted the freedom to act without undue direction or interference from government. Thus, in practical terms (and subject only to duties imposed by statute and professional standards), Legislative Auditors are:

- professionally independent (able to determine when, how and by whom audits will be conducted);
- personally independent (independent in relation to appointment and tenure); and

- managerially independent (able to independently staff and manage their offices).

Professional Independence

Legislative Auditors have a fair degree of freedom in how the audit function is to be carried out in their jurisdictions. That means having the licence to set the audit program for their jurisdictions, including choosing

The common title of a **Legislative Auditor** is either Auditor General or Provincial Auditor.

the bodies to be audited, determining the nature and scope of audits to be conducted, and deciding whether the work will be carried out by their own offices or contracted out to private sector auditors. This freedom relates to all phases of audit work, from the formulation of plans and decisions on work to be undertaken, to the content of audit reports provided to Legislative Assemblies and other interested parties. For legislative auditors, this freedom is not compromised by having to negotiate fees and seek additional work.

From a public accountability perspective, this high level of independence is crucial, for it helps to ensure that matters of importance are subject to thorough examination, without interference from governments or their organizations.

Personal Independence

Bolstering the independence of Legislative Auditors even further, legislators - not government - generally make decisions pertaining to the auditors' appointment, tenure, reappointment, remuneration and resourcing. Such decisions are, for the most part, overseen and approved by each Legislative Assembly as a whole.

In most Canadian jurisdictions, Legislative Assemblies have assured this independence in a number of ways:

- The Legislative Assembly has a decisive say in the appointment of the Legislative Auditor.
- Appointments are generally for fixed terms, with removal permitted only for cause or incapacity.
- Remuneration of the Legislative Auditor is usually pegged to a reference group, such as judges.

Legislation provides Legislative Auditors with immunity from legal action.

Legislation allows Legislative Auditors to determine how best to undertake audits (for example, whether by using in-house staff, contracted staff, or contracted firms).

The resources available for the legislative audit are either settled in discussion with the Legislative Assembly (the preferred model) or, if unreasonably constrained by government, made the subject of a Legislative Auditor's report to the Legislative Assembly.

Staffing and Managerial Independence

Legislative Auditors also have relative independence from government administrative controls. This enables them to organize, staff and manage their offices, and to engage outside expertise if necessary. While a number of offices are tied to certain government-wide policies related to human resource management, expenditures and budgeting, legislation largely allows Legislative Auditors to determine themselves how best to undertake audits using in-house staff, contracted staff or contracted firms.

Where Legislative Auditors have engaged private sector auditors to carry out audit tasks, the responsibility for the conduct of these audits remains with the Legislative Auditors. This continued involvement of the Legislative Auditors ensures that independence from government during the performance of the audit is maintained.

A Comprehensive Legislative Mandate

Each Legislative Assembly has created one Officer, the Legislative Auditor, to examine the whole of government and to report directly back to the Assembly. Being an Officer of the Assembly means being, above all, responsive to the Assembly's interests and wishes.

To abet this process, the Assemblies have provided their Officers with comprehensive, legislated mandates that cover all of government. This

ensures that an Officer's judgements on significance and risk is applied to every government organization's financial, operational and compliance with authorities performance.

That position as the Assembly's Officer, combined with the responsibility to audit the whole of government, is what sets Legislative Auditors apart from other audit professionals working in the public sector.

Audit Universe

Legislative Auditors are granted what are often referred to as "whole-of-government" mandates. Such mandates are all-encompassing, matching the responsibilities and interests of legislators and covering organizations as diverse as government departments, agencies, commissions, boards and Crown corporations.

In this way, Assemblies are assured of receiving their Officer's conclusions and recommendations for the whole government entity, regardless of whether or not the executive branch of government has hired a private sector auditor to audit a specific organization or program of government.

Legislative Auditors can use the work of an organization's private sector auditor or examine the organization directly. They are expected either to follow public money through to where it ultimately is spent, or to provide assurance that a sponsoring government ministry or organization has systems and practices in place to satisfy itself that the recipients have spent the money as intended.

The Legislative Auditor is the only official channel through which Legislative Assemblies are regularly and consistently kept informed about the quality of the government administration's stewardship of public funds and the achievement of value for money in government operations.

One of the advantages to legislators of this arrangement is that their auditor is allowed to review any government activity, whether that activity takes place in a ministry, Crown corporation or other government organization. It also helps ensure that relevant and material information comes before a Legislative Assembly.

Breadth of Audit Coverage

Legislative Auditors in Canada meet their auditing objectives by examining a very broad range of issues. These issues are not necessarily the same ones encountered in the private sector, mainly because of the basic differences between organizations in the private sector and those in government. For example, the private sector operates in a market environment where profits and share prices greatly assist in the valuation of an enterprise and the assessment of management's performance. By comparison, the public sector has more diverse objectives and thus directs greater attention to questions of value for money and the proper conduct of public business. Because government organizations have public policy objectives, the results of their operations cannot be assessed solely by using their financial statements.

Another fundamental difference is in the legislative basis for operating in the public or private sectors. Private sector entities may engage in any business activity, subject to guidance from their directors or shareholders and any legal prohibitions. In contrast, government organizations can only do what laws - both general and those entity-specific - expressly permit them to do.

This difference in legislative basis means that compliance-with-law issues have much greater emphasis in the public sector than in the private sector.

Recognizing these differences, Legislative Assemblies have broadened the scope of the work Legislative Auditors may do to obtain the information they need to hold government accountable. Assemblies want information from their Legislative Auditors about the financial, operational and compliance-with-authorities performance of their government organizations.

When there is a gap between the information legislators require and what governments provide, Legislative Auditors undertake a direct reporting approach in their audits. This means that they provide assurance by submitting performance information directly to Legislative Assemblies.

Reporting to Legislative Assemblies

As independent Officers, Legislative Auditors report directly to the Legislative Assemblies, at least annually, on anything they think should be brought to the legislators' attention. The auditors' reports become a matter of public record and cover a wide range of issues, including compliance, propriety and the economy, efficiency and effectiveness of operations.

Breadth of Audit Coverage: Some Comparisons

Private sector auditors

Private sector auditors of government organizations are not Officers of a Legislative Assembly and therefore virtually never report findings to an Assembly other than their opinion on financial statements.

Whenever private sector auditors are engaged by a public sector organization, their client can be the Minister responsible for the organization being audited, the executive council, or another government organization, depending on who hired the private sector auditor. The kind of audit work private sector auditors do is determined by the terms of their engagement.

Legislative Auditors often use the work of private sector auditors in government organizations to advance their own work. Assemblies have given their Officers a mandate to access the files of private sector auditors for this purpose.

Internal auditors

Internal auditors in government organizations are not Officers of the Legislative Assembly. Rather, they are usually employees of the organizations they audit, and their work focuses on improving administrative performance within those organizations.

Legislative Auditors also often use the work that internal auditors do in government organizations, to the degree that it helps the Legislative Auditors discharge their responsibilities to their Assemblies.

Public Accounts Committee

A notable aspect of the reporting relationship between Legislative Auditors and legislators is the direct access the auditors have to the Assembly's Public Accounts Committee. This direct access gives Legislative Auditors a formal means of discussing significant audit findings. It is a highly effective way of engaging legislators in the accountability process.

This direct reporting alternative is not available to private sector or internal auditors.

Expertise in Public Sector Matters

As a result of working exclusively in the public sector, Legislative Auditors have acquired extensive corporate and operational knowledge of government.

They are specialists in the field of public sector auditing and their credibility with legislators (for example, on topics

such as emerging public sector trends and accountability issues) is thus well established. Given their extensive interaction with legislators, Legislative Auditors are in the notable position of being aware of, and understanding, legislators' concerns.

Furthermore, having a whole-of-government mandate has allowed Legislative Auditors to speak to legislators about broad government matters and to better identify those accountability and performance issues that have the greatest impact on government. As a consequence, Legislative Auditors are better able to promote consistency of accounting across government organizations. This helps ensure transactions are treated fairly and consistently among entities.

Legislative Auditors are also better able to make informed decisions about the selection, conduct and reporting of audits across the public sector.

Legislative Auditors have also used their expertise in public sector matters to contribute to the work of various national and international professional bodies in developing public sector accountability standards and "best practices".

As well, the Canadian Council of Legislative Auditors has become a valuable network of collective expertise at the national level.

Legislative Audit: Serving the Public Interest

Questions are raised from time to time by legislators, the media, the public and others about the involvement, and the appropriate role of, a Legislative Auditor.

Legislative Auditors fulfill a unique position in the accountability regime of Canadian governments. They have been able to enhance the accountability relationship between government and Legislative Assembly because they have sufficient independence from government to be credible, they have comprehensive mandates that are set out in legislation, and they have the forums to report directly to the Assembly. Moreover, they have acquired the necessary expertise to carry out their role effectively.

But then to whom are the Legislative Auditors accountable? Such independence as that bestowed on the Legislative Auditors requires that they themselves be accountable to their respective Legislative Assemblies. This means that Legislative Auditors are obligated to report directly to the Assembly on how they carry out their responsibilities (including to what extent their offices are operating economically and efficiently) and how the services they are providing add value to the accountability process.

In serving the public interest, it is all of these abilities that distinguish the work of Legislative Auditors in the public sector and enable them to

take a position, provide expert advice without compromising objectivity, and sustain the continued enhancement of accountability practices over a long period.



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