



OFFICE OF THE
AUDITOR GENERAL
MANITOBA



**Mechanisms and Practices
for Ensuring the Accountability
of Legislative Auditors**

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The Need for Accountability

Legislative auditors throughout Canada have emerged as respected professionals who play a significant role in our system of democratic government.

As Legislative Auditors, they provide:

- assurance to legislators about the fairness of accountability information - particularly financial statements - presented by governments and they issue advice on how to improve public administration.
- assurance to legislators by reporting directly on management practices and program performance, and they issue advice on how to improve those practices.

In carrying out their work, legislative auditors sometimes bring a public focus to shortcomings in the public sector - a focus that frequently gets media attention.

Under the broad mandates afforded to them, legislative auditors have considerable discretion in the work they undertake and the way they manage their offices. At the same time, they hold notable powers of inquiry and certain protections from dismissal and litigation. Looking only at the powers in their governing acts might lead one to think that legislative auditors operate in an unfettered manner and are beyond accountability mechanisms. “Who audits the auditor?” legislators, the media and other interested parties

occasionally ask. What reciprocal protections are afforded to government and the public to prevent auditors from taking advantage of their office?

“Who audits the auditor?” is derived from the Latin question “Quis custodiet ipsos custodes?”, meaning “Who will guard the guards?” The answer to this question can't simply be another auditor/guard or the question can be posed iteratively forever. Rather, the answer must lie in accountability mechanisms. In exchange for being given the autonomy they require to conduct their job, legislative auditors must be answerable to their legislatures and the public for the responsibilities conferred on them.

Independence and Accountability

The value of legislative auditors has been their independence as much as their professional expertise. In Canada, legislative auditors enjoy the confidence of legislators and the public, and their independence is, for the most part, unquestioned. Such independence is recognized as the cornerstone of legislative auditing. It is paramount in ensuring that the credibility and reputation of legislative auditors is maintained in the public eye. The ability of legislative auditors to conduct audits that may reveal significant matters critical of a government has made the role essential in the democratic process. At the same time, however, legislative auditors must demonstrate that they have used their independence in the public interest by

being accountable to their legislatures and publics. In serving the public interest, legislative auditors recognize that accountability is an important means of demonstrating credibility and establishing trust. Without accountability, legislative auditors could not be allowed to function as they do.

Defining Accountability

While accountability is a notoriously difficult concept to define, most contemporary definitions include two key elements: the conferring of responsibility and authority, and the answering for the use of that authority. Having responsibility means having the authority to act, the power to control and the freedom to decide. It also means that one must behave rationally, reliably and consistently in exercising judgement. Answering for the use of authority means reporting and explaining actions, assuming obligations, and submitting to outside or external judgement.

Mechanisms and Practices for Ensuring Accountability

What accountability mechanisms and practices currently exist in legislative audit offices across Canada? This paper describes them under six themes:

- 1) role and responsibilities,
 - 2) office managing and resourcing,
 - 3) quality assurance processes,
 - 4) professional responsibilities,
 - 5) audit reporting processes, and
 - 6) public reporting obligations.
- Consistent with the preceding definition of accountability, these themes are segregated into three distinctive parts:
- Mechanisms for Ensuring the Authority to Act.
 - Internal Practices for Ensuring Quality Work.
 - Answering to Legislatures and the Public.

Mechanisms for Ensuring the Authority to Act

Role and Responsibilities

Accountability, as noted above, requires responsibility. Responsibility, in turn, requires the authority to act. Appropriately, legislative auditors across Canada have been provided authority through comprehensive, legislated mandates that cover all of government. Although the scope of the audit universe for legislative auditors is not generally well specified in their governing legislation, it has evolved over time to meet the respective needs of legislatures.

One convention, although it varies somewhat from jurisdiction to jurisdiction, is that legislative auditors have the responsibility to audit the whole of government. This broad mandate matches the responsibilities and interests of legislators, covering organizations as diverse as government departments (ministries), agencies,

commissions, boards and Crown corporations.

Another convention is that legislative auditors for the most part have the authority to follow public money to where it is ultimately spent. In some cases this may involve examining the systems and processes that a sponsoring government ministry or organization has in place to satisfy itself that the recipients have spent the money properly.

While it is recognized that legislative auditors meet their auditing objectives by examining a very broad range of issues, there is universal agreement that auditors must not call into question the merit of program policies and objectives. This restriction, which in some jurisdictions is specified in legislation, aims to prevent legislative auditors from assuming a political role.

All legislative auditors have also been granted authority, under their respective governing legislation, to access any information they require to perform their duties. This authority, however, has bounds. For example, legislative auditors do not generally have access to third-party records or cabinet confidences. And their powers of inquiry extend only to government employees about matters related to government accounts and activities. In Manitoba, the legislative auditor has the right to subpoena private individuals and businesses that are recipients of public monies for which they are, or should be, accountable to the Legislative Assembly.

Additionally, although legislative auditors - whose appointment is typically transparent and overseen by legislatures - cannot be removed from office at political whim or without public knowledge, they can be removed for cause should they abuse the authority vested by the legislature.

Internal Practices for Ensuring Quality Work

Office Managing and Resourcing

To be independent, legislative auditors must be provided with sufficient freedom and resources to be able to act without direction or interference. Nevertheless, such freedom is accompanied by a number of checks and balances, in addition to the myriad of legislative, professional and general accountabilities. For example, although legislative auditors typically have a reasonable degree of freedom from government administrative controls - which allows them to organize, staff and manage their offices and to engage outside expertise if necessary - this freedom has limits. For instance, legislative auditors are free to allocate resources, but only within the limits of a budget approved by a committee of the legislature or the executive government.

And, while they have discretion in administering their offices, they generally choose to follow government administrative policies in areas such as personnel (including salary levels, classifications, benefits and grievance procedures), travel, asset procurement and accommodations. Ultimately, legislative auditors must

have appropriate standards in place for the management and use of public resources, which can withstand any public scrutiny exercised by legislators or members of the public.

Quality Management Systems

Having responsibility, as defined earlier, also means acting reliably and with consistency. This is critical for legislative auditors, who must exercise significant professional judgement in carrying out their work and reporting their findings and opinions. For this reason, the auditors themselves have put into place quality management systems to help them ensure the reliability and consistency of their judgements. The processes include:

- *Review process* - In this process, files and reports are subjected to thorough internal reviews to ensure that the opinions and conclusions made are accurate, fair, and supported by sufficient evidence. This process often includes a review by other professionals in the office, or by external experts, who have specialist subject area knowledge.
- *Report pre-issuance procedures* - These procedures ensure the adequate planning and proper conduct of audits.
- *Office committees* - Made up of a cross-section of staff, these committees often address particular facets of the office's activities, such as staff development and the identification of best practices.

Legislative audit offices may also have in place such processes as:

- *Report post-issuance and/or peer reviews* - These reviews assess quality issues, such as the efficiency and effectiveness of audit practices, to determine that practices are adequate or, if they are not, identify where improvements are needed.
- *Office codes of conduct* - Some offices have adopted, in addition to rules of professional conduct and public service conduct codes, their own codes pertaining to various professional activities and ethical behavior.

As well as office quality assurance processes, legislative auditors are subject to processes that involve outside parties, such as:

- *Practice inspections* - Most offices in Canada are subject to practice inspections, with respect to financial statement auditing practices, by professional associations. In reporting on financial statements, legislative auditors assert that they have conducted the audit in accordance with generally accepted auditing standards. Inspections by a professional association help ensure that professional financial statement auditing standards are being followed and that office practices remain suitable for the training and apprenticeship of new professional accountants.

- *Methodology sharing* - Legislative auditors have collective experience and expertise in a similar setting and, through such forums as the Canadian Council of Legislative Auditors, share with each other their respective experiences, including audit methodologies. Most auditors are also involved with various professional organizations to keep abreast of the latest developments in public sector audit and management practices.
- *Stakeholder consultations* - Legislative auditors consult regularly with outside parties, such as legislators, governments and the public, to ensure the relevancy of the audit work performed and of the manner that work is communicated to stake-holders. These consultations assist auditors in identifying those matters that are of public interest and should be subject to audit. The work is usually carried out on an informal basis, although auditors often consult on a more formal basis through such means as stakeholder surveys.
- *External advisory committees* - Some auditors use external advisors, drawn from the private and the public sector, to provide them with advice relating to sensitive audit issues or the Office's audit approach.
- *External review of operations* - Some auditors undergo periodic external reviews of their offices'

operations for such matters as the efficiency of their attest audits or the adequacy of their quality management systems.

Professional Responsibilities

Legislative auditors are members of professional accounting bodies. Generally, most legislative auditors regard themselves as bound by the accounting and assurance standards of the Canadian Institute of Chartered Accountants (CICA). In some jurisdictions, there is even a legislative requirement to adhere to such standards.

Professional standards affect legislative auditors in a number of ways, from how they carry out their audit responsibilities to how they report their findings and opinions. For example:

- *Assurance standards* - These professional standards apply to such matters as staff competence, audit criteria, evidence gathering and reporting.
- *Public sector accounting recommendations* - Auditors refer to these recommendations when forming their findings and opinions with respect to government financial statements.
- *Reliance on other auditors* - Legislative auditors do not directly audit all areas of government within their mandates. Therefore, when warranted, they use and rely on the work of other auditors, whether internal or external to the organization being audited,

following the guidance in the standards.

- *Reliance on specialists* - Legislative auditors are not expert in all government matters; they therefore frequently use and rely on the work of specialists knowledgeable in their respective fields, following the guidance in the standards.

In addition to Canadian standards, legislative auditors occasionally refer to international standards, particularly when issues are not addressed specifically in Canadian standards. Legislative auditors are aware that international standards will become increasingly relevant to their audit practice as Canadian standards move to harmonize with them.

Answering to Legislatures and the Public

Audit Reporting Processes

Audit reporting is the practical expression of an auditor's work. The reports of legislative auditors must usually be tabled and made available to their respective legislatures - which means the reports must stand up to rigorous scrutiny and a wide range of external assessments and challenges. This puts the onus on legislative auditors to weigh the interests of all affected parties before expressing opinions and recommendations. In most jurisdictions, a Standing Committee of Public Accounts (or other committees of the legislature) holds hearings on each report presented,

calling witnesses from management and ultimately making recommendations to its legislature.

In addition to this formal public process, an auditor's work may also spark public hearings, royal commissions, investigations or litigation at which the auditor may be compelled to testify and justify his or her observations. As well, legislative auditors must consider the potential reactions of the press and general public to their findings and opinions.

To ensure that their findings are sound and will withstand public scrutiny, legislative auditors have put into place rigorous report validation processes to allow review by those responsible for the matters included in the audit. The typical review process includes asking members of management whether they agree with the facts and accuracy of the findings, and whether they have concerns with the issues presented. The validation process may also involve seeking management's input on the practicality of the recommendations and obtaining their view on the best ways to correct the problem.

In many instances, management responses to an audit, including any disagreements with the findings and recommendations, are published along with the auditor's work. The information in the auditor's public reports and the information and challenges that management puts forward during Public Accounts Committee hearings ensures that legislators can hold the auditor

accountable for the assurance and advice that has been provided.

Public Reporting Obligations

Public reporting is key to demonstrating transparency and is a pragmatic step in creating a well-performing, cost-effective organization. For many people, transparency is the essence of accountability.

In recent years, legislative auditors have been paying more attention to conveying complete and relevant performance information to legislators and the public so that both groups are better able to make informed judgements on the auditors' performance. For example, most legislative audit offices are subjected to an annual audit of their financial statements by an outside, independent auditor, appointed by either the legislature or the executive government.

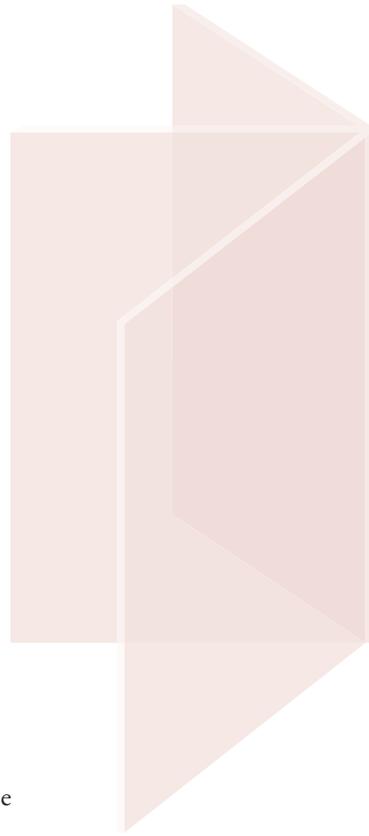
All legislative auditors are also legally required to report annually to their legislatures on the work of their offices. In some jurisdictions, the annual reports are referred to a Standing Committee on Public Accounts for review and discussion around any significant issues that have arisen from the report. Formerly, these annual reports were a testimony of the types of services rendered by auditors, allowing public scrutiny of the activities of their offices. Increasingly, however, legislative auditors have come to understand that an annual report should be more than a summary of their activities; it should also be a balanced and candid account of the office's performance and the results achieved. Appropriately,

most offices have responded by publishing a number of performance indicators in their annual reports, as well as commentary about the accomplishments achieved against the expectations set out in their plans. This new emphasis on performance requires that auditors also provide information at the front-end of the reporting cycle, in the form of strategic and business plans that set out their expectations and the means they will employ to meet those expectations. As a result, an increasing number of legislative auditors are publishing their plans annually in one form or another.

The strategic and business plans explaining what the auditor plans to do, as well as the auditor's annual report on the actual performance achieved, are the two key documents legislators need so that they can ask informed questions and hold the legislative auditor accountable.

A Proper Balance of Independence and Accountability

Legislative auditors must continually earn the right to serve the public interest by demonstrating that the trust in them is justified. Achieving and preserving a professional reputation of high standing is therefore paramount. Although legislative auditors are given reasonable independence, they must be accountable for all they do while exercising that independence.



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