

Third Session – Forty-Second Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Public Accounts

Chairperson
Mr. Jim Maloway
Constituency of Elmwood

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MANITOBA LEGISLATIVE ASSEMBLY
Forty-Second Legislature

Member	Constituency	Political Affiliation
ADAMS, Danielle	Thompson	NDP
ALTOMARE, Nello	Transcona	NDP
ASAGWARA, Uzoma	Union Station	NDP
BRAR, Diljeet	Burrows	NDP
BUSHIE, Ian	Keewatinook	NDP
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KINEW, Wab	Fort Rouge	NDP
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**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON PUBLIC ACCOUNTS**

Wednesday, October 14, 2020

TIME – 6 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Jim Maloway (Elmwood)

VICE-CHAIRPERSON – Mr. Andrew Smith (Lagimodière)

ATTENDANCE – 11 QUORUM – 6

Members of the Committee present:

Mr. Johnston, Ms. Lamoureux, Messrs. Lindsey, Maloway, Michaleski, Mses. Morley-Lecomte, Naylor, Messrs. Smith, Teitsma, Wasyliw, Wishart

Substitutions:

Ms. Lamoureux for Mr. Lamont

WITNESSES:

Tyson Shtykalo, Auditor General

MATTERS UNDER CONSIDERATION:

Auditor General's Report—Operations of the Office for the fiscal year ending March 31, 2017

Auditor General's Report—Operations of the Office for the fiscal year ending March 31, 2018

Auditor General's Report—Operations of the Office for the fiscal year ending March 31, 2019

Auditor General's Report—Operations of the Office for the fiscal year ending March 31, 2020

Auditor General's Report—Operations of the Office—Strategic Priorities Plan for 2019/20 and 2021/22

Auditor General's Report – Follow-up of Previously Issued Recommendations, dated May 2014

Section 17—Personal Injury Protection Plan

Auditor General's Report – Follow-up of Previously Issued Recommendations, dated May 2015

Section 4—Appointment Process to Agencies, Boards and Commissions

Section 7—Personal Injury Protection Plan

Section 15—Manitoba eHealth Procurement of Contractor

Auditor General's Report – Follow-up of Recommendations, dated May 2016

Personal Injury Protection Plan

Appointment Process to Agencies, Boards and Commissions

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Mr. Chairperson: Good evening. Will the Standing Committee on Public Accounts please come to order.

This meeting has been called to consider the following reports: No. 1, Auditor General's Report, Operations of the Office for the year ended March 31, 2017; Auditor General report, Operations of the Office for the fiscal year ending March 31, 2018; Auditor General's Report, Operations of the Office for the fiscal year ending March 31, 2019; Auditor General's Report, Operations of the Office for the fiscal year ending March 31, 2020; Auditor General's Report, Operations of the Office—Strategic Priorities Plan for 2019-20 and 2021-22; Auditor General's Report, Follow-up of Previously Issued Recommendations, dated May 2014, Section 17—Personal Injury Protection Plan; Auditor General's Report, Follow-up of Previously Issued Recommendations, dated May 2015, Section 4—Appointment Process to Agencies, Boards and Commissions, Section 7—Personal Injury Protection Plan, Section 15—Manitoba eHealth Procurement of Contractor; Auditor General report, follow-up recommendations—Follow-up of Recommendations, dated May 2016, Personal Injury Protection Plan, Appointment Process to Agencies, Boards and Commissions.

Committee Substitution

Mr. Chairperson: Before we begin, I would like to inform the committee that the House has granted leave for the substitution of Ms. Lamoureux for Mr. Lamont for tonight's meeting.

* * *

Mr. Chairperson: Are there any suggestions from the committee as to how long we should sit this evening?

Ms. Lisa Naylor (Wolseley): Two hours.

Mr. Chairperson: Two hours. That's 'til 8 o'clock then.

Is there agreement, then, to sit 'til 8 o'clock? Agreed? *[Agreed]*

I believe there was a prior agreement that this committee complete consideration of the following items without debate: Auditor General's Report, Follow-up of Previously Issued Recommendations, dated May 2014, Section 17–Personal Injury Protection Plan; Auditor General's Report, Follow-up of Previously Issued Recommendations, dated May 2015, Section 4–Appointment Process to Agencies, Boards and Commissions, Section 7–Personal Injury Protection Plan, Section 15–Manitoba eHealth Procurement of Contractor; Auditor General's Report–Follow-up of Recommendations, dated May 2016, Personal Injury Protection Plan, Appointment Process to Agencies, Boards and Commissions.

Does the committee agree to complete the consideration of these sections? *[Agreed]*

Are there any suggestions as to the order in which we should consider the remaining reports on today's agenda?

Mr. Mark Wasyliv (Fort Garry): Global.

Mr. Chairperson: Global.

Does the Auditor General wish to make an opening statement?

Mr. Tyson Shtykalo (Auditor General): First I'd like to introduce the staff members that I have with me today.

I have Stacey Wowchuk, who's the assistant auditor general for Performance Audit; Frank Landry who is our manager of communications; and Maria Capozzi, director of governance audit.

Mr. Chair, as discussed in our recent Operations of the Office reports, we continue to focus our attention on areas of strategic importance to the Legislative Assembly through our audit work and our reports. We believe that by providing quality products and services to the Assembly, we are contributing towards the following desired outcomes: (1) high-performing government organizations; (2) performance and accountability reports from government organizations that are meaningful and user friendly; and (3) a well-informed Public Accounts Committee that endorses our recommendations and effectively oversees the implementation status of our recommendations. In doing so, the committee ensures that the

administrative and performance issues discussed in our reports are properly resolved.

My office is dedicated to producing audits that support the Legislative Assembly's efforts at ensuring resources are properly accounted for and that public monies are spent with due regard to value for money. One of our strategic priorities is to focus our audit work to maximize its value to the Assembly. This includes ensuring our financial statement audit resources are focused on a more strategic mix of entities. Many of the financial statements–audits that we perform–are due to legislative requirement rather than importance or significance within the government reporting entity. We are developing an action plan to move toward a more optimal mix of financial statement audits.

Another one of our priorities is to strengthen office operations. In support of this, we've made a number of enhancements in recent years. We've created a new organizational structure that includes three assistant auditor generals and new audit director positions; we've created and filled the positions of director of corporate services and manager of communications; we've strengthened our security practices, including physical and cybersecurity controls.

We've also developed a secure portal to allow internal and external individuals to securely share and view sensitive documents; we have improved and updated our website, making our reports easily accessible and searchable; and we've reviewed and updated our audit methodologies to ensure that they're consistent with professional standards and enhanced our internal quality assurance practices.

Mr. Chair, it is a priority for me and my office to support the Public Accounts Committee in its efforts to improve the performance of government organizations. My office assists in providing orientation and development sessions for PAC members. We also work with the Canadian Audit and Accountability Foundation to provide sessions on improving committee practices.

To assist the Public Accounts Committee in its efforts to modernize its practices, we updated a 2017 analysis that compares and contrasts the rules and practices of Manitoba's PAC to those of other Canadian jurisdictions. This analysis highlights practices in Manitoba that are not consistent with good practices in other jurisdictions. This is useful in considering how the effectiveness of the committee

could be improved, both with and without rule changes.

We note in our 2020 operations report that, to ensure it can be among the best-functioning PACs in the country, Manitoba's PAC must strengthen its practices and change several rules. For example, Manitoba's PAC is the only committee in Canada required to call the minister as a witness and the only one requiring Government House Leader to call its meetings.

My office attends PAC meetings as your adviser. We noted in our most recent operations report that in 2019-2020, the PAC did not hold any meetings to discuss audit reports; it only met three times for procedural and professional development purposes. PAC is required by section 111(1) in chapter 10 of the rule book to hold a minimum of nine meetings. Unfortunately, that requirement was not met in any of the years before us for discussion today.

Mr. Chair, as stated in our most recent operations report, one of the risks our office faces is not being independent from government and its organizations, or being perceived not to be. The office must be, and must be perceived to be, independent from government and the government organizations that we audit. This is a cornerstone of legislative auditing and a key tenet of how—of our legislative mandate, which is to provide independent information, advice and assurance.

A long-unresolved matter impacting our actual and perceived independence from government is our relationship with the Civil Service Commission. I note that changes made in the proposed Public Service Act may impact this, and I'm looking forward to future discussions on that.

Amendments to The Auditor General Act was a promise that began in 2017 but has not progressed. We look forward to working with Legislative Counsel regarding the proposed amendments to enhance our independence, as well as other enhancements.

Mr. Chair, an effective PAC plays a significant role in ensuring our office has the desired positive impact on the performance of public sector organizations. This is because government departments and Crown organizations are accountable to PAC for the implementation of recommendations, recommendations, it must be stressed, that deal with administrative and management practices and not with the merits of government policy decisions.

Recommendations have no impact unless implemented, and PAC plays a key role by first endorsing our recommendations and, secondly, by holding entities accountable for their actions in implementing our recommendations. PAC can bring to bear the full authority of the Legislative Assembly to ensure departments do what is needed to properly address the issues underpinning each of our recommendations.

* (18:10)

PAC not fulfilling its key responsibilities of ensuring audited entities are responding appropriately to audit findings and improving their operations is a key risk for our office. This is why we continue to encourage PAC to actively monitor the status of outstanding recommendations that it judges as significant and hold government departments and Crown organizations accountable for their respective commitments to improvement.

For those outstanding recommendations with little to no progress after our third and follow-third and final follow up, it is critically important that PAC provides ongoing monitoring of the progress and implementing the recommendations.

We have worked closely with the committee to identify ways to strengthen its processes in this regard. This included assistance in developing a process to both request action plans when audit reports are issued and progress reports on the implementation status of outstanding recommendations after three years of follow-up.

I'm very pleased that PAC has been meeting more frequently since the spring and I am hopeful that Manitoba's PAC moves forward to request action plans and progress reports. I encourage all members to no longer delay in moving forward to improve the practices of Manitoba's Public Accounts Committee so that it lines with best practices. My office looks forward to working with you to assist you on this journey.

Finally, Mr. Chair, like all Manitobans, my office has felt the impact of the COVID-19 pandemic and I'm very proud of my staff for continuing to produce exceptional audit work in these difficult circumstances.

Thank you, Mr. Chair.

Mr. Chairperson: Before we proceed further, I'd like to inform members of the committee of the process

that's undertaken with regard to outstanding questions.

At the end of every meeting the research officer reviews the Hansard for any outstanding questions that the witness commits to provide and answer and will draft a questions-pending-response document to send to the Auditor General. Upon receipt of the answers of—to those questions, the research officer then forwards the responses to every PAC member and to every other member recorded as attending that meeting.

Before we get into questions, I'd like to remind the members that questions of an administrative nature are placed to the Auditor General and that policy questions will not be entertained and are better left for another forum. However, if there are questions that border on policy and the Auditor General would like to answer that question, then that's something that we would consider.

The floor is now open for questions.

Mr. Wasyliv: Yes, thank you.

Auditor General, as you're well aware, your office provided several qualified audits in relation to this government's different interpretation of whether WCB and MASC assets are assets under the control of government.

What I'm interested in is, in the future, to avoid these type of conflicts which appears to be a conflict over different accounting standards, would it be advisable for both the government and the Auditor General's office to use the same accounting standard?

Mr. Shtykalo: So I would say to that that the, you know, the Auditor General's office and the government in preparing their financial statements do use the same accounting standards, in that they are the public sector accounting standards, as proclaimed by the public sector accounting standards board.

However, as is common with all accounting standards, there is a significant portion of it that comes down to professional judgement. Interpreting accounting standards sometimes leads to different interpretations but they're still fundamentally based on the same accounting standards.

Mr. Wasyliv: I guess the issue is is that if you have accounting standards that are open to interpretation, you have the phrase creative accounting and all governments engage in it, regardless of political affiliation.

Is there a way to avoid those type of conflicts over creative accounting or interpretation and have one sort of benchmark standard that everybody is speaking the same language?

Mr. Shtykalo: One of the things that is important to me since I was appointed Auditor General is communication with our auditees, whether that's a performance audit or an IT audit or a financial statement audit. Communication is key right from the planning phase all the way to finalization and it's important that those discussions are held during the audit and not left until the end of the audit, so that we can have those constructive conversations on interpretations, we could provide a more fulsome explanation of our position and hear, you know, a better explanation of the government's basis for their judgments that they're exercising.

So I commit to that, and we currently, as part of our Public Accounts audit, are in regular communication with the comptroller's office in the Department of Finance on not only, you know, the issues that have led to the qualifications in the past, but on potential accounting treatments of emerging issues.

Mr. Wasyliv: And again, I'm asking this in a general way, I'm not necessarily pointing to the current government or the previous government. How do we take the politics out of accounting standards? How do we just completely depoliticize this so that these things just don't happen? And is there something that we can put in place through legislation or policy where you can avoid these types of conflicts in the future and it's just something that we don't argue about around here?

Mr. Shtykalo: I wish I had something that I could put forward that would accomplish exactly that. Taking politics out of anything is not an area of my expertise. We are independent of government and the organizations that we audit. Our judgments are made free of any sort of political influence.

How to do that for, you know, whatever government it is that it's in place that is—that are doing this accounting rules, I can't do anything more than in my position but put forward my best professional judgment and report to the Legislative Assembly on that.

Mr. Wasyliv: Are you familiar with best practices from other jurisdictions or other places where these things just don't seem to happen there? Is that a

cultural thing or is there something that actually could be in place that could sort of prevent it?

Mr. Shtykalo: I think, in talking with my colleagues across the country, it comes back to what I was saying on the value of communication and having that throughout the audit.

Qualifications aren't unknown on summary financial statements. They have happened, so it's not like Manitoba is, you know, necessarily the outlier in that. However, that being said, you know, it's my belief that it's the offices that are working together in communicating with their respective departments of Finance and on the accounting standards that seem to be able to avoid, perhaps, some of these controversial issues at the wrong time.

Mr. Wasyliv: Now, the government on the WCB file points to other jurisdictions and say that they don't include that in their assessment. And generally, there's legislation that would support that interpretation, and it appears we're moving that direction in Manitoba.

I'm wondering, is there any other legislation that you're aware of in Manitoba right now that changes your audits, that you would be doing things differently but for this legislation or that legislation and things would be looked at that currently aren't because of statute?

Mr. Shtykalo: One of the more pervasive or primary indicators of control under public sector accounting standards is the ability for the government to appoint the board—the government's body of an organization, so there's a lot of legislation that's out there that gives the government control through that type of statute.

So if your question is if—but for that, there are several organizations that would fall outside of the control if it were not for the statutory requirement to appoint the board.

* (18:20)

Mr. Wasyliv: Which are those?

Mr. Shtykalo: I don't have a list in front of me, but a significant portion of the government—of government reporting, or—reporting organizations within the government reporting entity do have board appointments by the government.

Mr. Wasyliv: So those entities that obviously are—putting you on the spot—that are not top-of-mind and the—eventually WCB joining them; is transparency and accountability improved by this or is it diminished by doing this?

Mr. Shtykalo: So transparency for—if you take one of these or several of these organizations that we're talking about here where the board appointments are done by the government, and you remove that, there are other indicators of control. So we would not just, you know—the question you originally asked me, if there was anything, what for—would it—so I can't sit here and say that in every case it would, because there are secondary indicators of control.

But if the preponderance of the evidence would lead to that it's no longer controlled by the government, then I would say, you know, the transparency of that particular entity would then be responsibility of that board and issuing, you know, financial reports and annual reports providing that transparency.

From the perspective of the government, given that we wouldn't believe that they would meet the criteria of control, I wouldn't consider that to be any sort of breach of transparency in or for what the government actually controls.

Mr. Wasyliv: For the purposes of a Public Accounts Committee and being able to hold these public bodies accountable and keep them transparent, if they no longer fall within your purview, I think you would agree with me that this committee would have less control over the workings of those agency board commissions, and there would be less accountability and transparency from a legislative point of view.

Mr. Shtykalo: I've been—I would agree from the perspective of the Public Accounts Committee that that's a fair statement.

Mr. Wasyliv: We've seen, in the past few years, a growing number of trusts created—there's a Heritage Trust, Conservation Trust—and a great deal of money is going into those trusts.

Is that within the purview of the Auditor General, or are you—is that—these entities now they're been sort of removed from your gaze?

Mr. Shtykalo: Depending on the arrangement, the trust arrangement, it could fall in, kind of, a spectrum as to, you know, how much that falls under our purview. For some of them, for example, the money is put into a trust or a foundation and it sits there, earns interest, that money is then, you know, the interest that is earned would at some point become available to the government to spend on whatever the stated purpose is.

And at that point, that money would be, you know, from our perspective, under the control of the government, so we would—it would fall under their purview of a—of our Public Accounts audit. For other arrangements, such as we see with the MASC Trust, for example, we believe that does fall under the purview of our office. We believe those are controlled funds.

So it depends on, you know, really on the arrangement of the trust agreement where the money's paid into the foundation and what level of control government has over that money that's sitting there at any point in time, which can change from year to year.

Mr. Wasyliw: Now, I'm wondering if you could explain why it's necessary for your office to be independent from government and what type of influence or control you should be free of?

Mr. Shtykalo: So, one of the things that we talk about in our operations report—actually, there's—I can't remember which year it is, but in one of the reports, we bring up two examples of where this independence—we perceive a lack of independence as being a threat.

Number 1 is our involvement with and requirement to hire and staff our office under the Civil Service Commission. And the other example that we point to is the decision surrounding our office, or our premises, where we have to deal through Accommodation Services.

The reason why we say it's so important for us to maintain our independence is quite simply: we need to be—if we're dealing with one of these bodies for operational purposes, and there's something that we would like to see happen operationally, it can't be seen that then—that that body making an accommodation for us will influence whether we go in and, say, do an audit of the Civil Service Commission, or if we do do an audit, what our findings are; or we can't be perceived to think if we don't like the way we're being treated operationally by these organizations that we would then go in and take it out on them.

So it's—for these reasons, it's very important for our office to be independent of government influence, and to be perceived to be independent.

Mr. Tom Lindsey (Flin Flon): I just want to ask a quick question.

Previously, you were talking about entities that fall under your purview for audit purposes, and some of these different funds that the government has put

money into may or may not, depending on the terms of how the fund was established.

So, just, the fund that now takes the place of the Mining Community Reserve Fund that is administered by the Chambers of Commerce—is that something that falls under the purview of your office for audits or not?

Mr. Shtykalo: Before I gave a definitive answer, I'd like to—I would like to have the chance to sort of see the details of the arrangement.

But I will say, what we're looking at is—like I was mentioning, not whether that money is sitting there—what the level of control that the government has over that money.

So, if there is an option to access some of that money through whatever means of the agreement that they gave up, or make decisions on how that money is spent, we would view that as an—you know, an indicator of control. So, we may have.

But, if it's an arrangement where the money has been paid over in its entirety and it's sitting with the Chambers of Commerce, they make all the decisions as to where it's invested, what safeguards they have in place to safeguard those assets, and there is only a requirement based on whether its earnings—annual earnings in a year—to make that portion accessible to the government to pay.

That would be the portion that we would consider control, not the lump sum of money sitting inside that foundation or entity.

Mr. Lindsey: So, is it possible for you to look into that and get back to us with an answer on that specific fund?

Mr. Shtykalo: I can do that.

Mr. Wasyliw: Would you say that the Auditor General's office is in control of its internal financial budget?

Mr. Shtykalo: Our budget is set by the LAMC, but any decisions on—once we receive, you know, the appropriation is passed and we have access to that money—we maintain our separate independent bank account, and we make all decisions regarding where and how that money is spent.

* (18:30)

So, I would say we don't have independence over it, like, setting the appropriation, but certainly we do over decisions in conducting our business.

Mr. Wasyliw: Is that a concern when it comes to your independence?

Mr. Shtykalo: I would say at this point that I haven't viewed that as a threat to independence. Our budget has remained stagnant—or not stagnant, but has remained unchanged for several years. Of course, if we had more money, we could do more audits, but operationally I think we're able to deliver on our mandate quite successfully with the level of funding we have right now. Now, if that was to change or go down, I may have some concerns.

Mr. Wasyliw: How many years has your budget been frozen?

Mr. Shtykalo: So I don't have the exact budget information in front of me here, but I'm just going from memory that I think it was three years ago where we had—or starting three years ago we had requested and were approved some additional full-time equivalent positions for our office but they were unfunded. So we've been requesting up to this year additional funding for those FTEs, but they've been denied, and I think it's for three years now.

So, where we—I wouldn't say our budget's frozen, like, there are—there were slight general salary increases but certainly not additional funding for these FTEs which we are currently funding through either vacancy management or other operational funds.

Mr. Wasyliw: Are you receiving cost-of-living increases of 2 per cent each year for your 55 staff plus additional half a per cent for just general inflation or are you getting the same pot of money for the last three years?

Mr. Shtykalo: We are receiving increases. I can't—I don't want to quote the percentages, but we have been receiving minimal increases.

Mr. Wasyliw: Have they been covering your inflationary costs or are they less than inflationary?

Mr. Shtykalo: Again, my best—not having done an analysis of it, I would think that it probably would fall short of the inflationary increases.

Mr. Wasyliw: So, if that was the case, you would agree with me that essentially that means your budget's been cut every year.

Mr. Shtykalo: Well, I'm not saying that. I can add to this that for the last three years, we have consistently underexpended our appropriation to the tune of about 500 to 600 thousand dollars. So we're doing that through basically vacancy management in our office.

So that's probably why the monetary pressures aren't forefront in my mind because we have been managing quite well with—under our budget allocation.

Mr. Wasyliw: So, out of the 55 positions that you've been allotted, how many positions go empty on an average year in order for you to, you know, make it work?

Mr. Shtykalo: Probably about five.

Mr. Wasyliw: How many more audits could you do a year if you had a full complement of staff?

Mr. Shtykalo: We could—we—the plan is to fully staff up. There are a few—as part of the reorganization, there are—there's a few missing pieces in our office that we still have to promote to within and then bring in people from the outside to fill those vacancies. So it's been an ongoing process, but certainly, the idea of staffing up to our full complement is to be able to produce more audits.

It's hard to say exactly how many because it depends on the size and the scope of the audits that we choose to do. We are also putting in several measures within our office to gain some efficiencies in the audit work and cut down on the amount of time it takes us to issue reports out of our office.

So the combination of those—of bringing in more staff and the internal efficiencies in our audit performance should result in an increased output from our office. I'm very confident about that.

Mr. Wasyliw: Now, when you are seeking to get your budget every year and you're going through the Legislative Assembly Management Commission, what's the process from your point of view? Are you submitting a proposed budget? Are you making an ask for a certain amount of resources? Like, how does it work from your perspective?

Mr. Shtykalo: So having been appointed just recently in August, this is my first time actually through the budget process as Auditor General, although under the previous Auditor General, I—you know, I was involved in conversations. And basically, the process is that we provide an estimate, a breakdown of salaries and benefits for the year and other operating expenses.

I believe that's the only level of detail. Now, I know, in previous years, the LAMC had asked for a further breakdown of some of those operational costs, which I believe we had provided, but I wasn't, like I said, I wasn't directly involved with that.

And the other thing I was going to say about the process—oh, yes—we have—accompanying that sort of numbers that we're requesting, we can provide an—for—so I had explained about the two unfunded FTEs that we were requesting funding. So, we would provide an explanation on why it was operationally important to get funding for those positions and that would go along with the budget submission to LAMC, from the best of my knowledge.

Mr. Wasyliv: So once you've made that submission, it then goes to LAMC and they can accept it, reject it, modify it. Is that right?

Mr. Shtykalo: I believe that's the process, yes.

Mr. Wasyliv: How does that affect your independence?

Mr. Shtykalo: Our money needs to come from somewhere. And that's the reason I said that, you know, up to this point, I haven't reflected on it, you know, influencing our independence.

You know, the other thing about LAMC is that LAMC itself is not—

Mr. Chairperson: The Auditor General.

* (18:40)

Mr. Shtykalo: So when I provided my examples earlier of the Civil Service Commission and Accommodation Services Division, those were, you know, those are operational-type areas of the government where, in the normal course of our audit work, stand a pretty good chance of covering off in one of our audits.

LAMC, I will say that if it ever came to a situation where we were asked to, or we made the decision to, do an audit of LAMC, I would say that because of the process, the budgeting process, our independence would be impaired. We would have to put in safeguards around that because our standards require that when we are auditing any entity or organization that we are—we do maintain our independence. So anything that would seem to impair that independence we would put in safeguards. Safeguards can be, you know, contracting out a certain bit of work. It could be bringing in a peer review of our audit work. There's several options that we might have at that point.

Mr. Wasyliv: I'm sure you're aware that provincial judges have their own sort of independent commission that sort of decides their financial issues. MLAs, we have our own independent commissioner who decides our salaries.

Should the Auditor General's office have some type of third-party independent commissioner that decides those types of financial issues?

Mr. Shtykalo: So I'll just say this isn't something that I've spent a lot of time thinking about, but I certainly—it's certainly something that I think should be considered and something that, you know, I would be—you know I would certainly support further discussions on whether that is something.

Also, I'm not sure what the arrangements are in other jurisdictions, whether there's similar bodies that make those decisions for other legislative audit offices. That would be something I'd want to look at too.

Mr. Wasyliv: I think you anticipated my next question. I was going to say, is there best practices or do you know of other jurisdictions about how they sort of deal with this issue?

Mr. Shtykalo: Don't know, but it's certainly something that I'd be willing to and would like to look at.

Mr. Wasyliv: I think you've already alluded to it that you don't have full control over your staffing and you have some concerns independence-wise in regards to that. I wonder if you can expand on that.

Mr. Shtykalo: Right. So, you know, one of the things I talk about in the operations report is how we recently—well, within the past two years—have hired a director of corporate services who is—was brought on to provide us sort of in-house human resource services to assist us with our recruitment, setting staff policies, et cetera.

Part of the reason for that was, up until that time, you know, executive or principals in our office were kind of dealing with HR issues off the corner of their desk and we would liaise with the Civil Service Commissioner. We were issued a civil service rep who would help us navigate through these issues.

So, in those circumstances, it's helped having someone in our office with the expertise that can deal with it. However, the issue is, is we're still only delegated authority from the Civil Service Commission so that any actions that we take on a staffing level are under the, you know, must be under the approval of the Civil Service Commission.

So, if in our office we decide that we want to restructure or create a new position, that position is then subject to the Civil Service classification standards and must go through that whole process. So

I know, just having been through it in the past, that that's a frustrating process to go through because, you know, for whatever reason, we're not necessarily agreeing on the reasons or why.

So, from an affecting independence perspective, if we're on the phone trying to negotiate a classification of one of our employees one week and we have to get on the phone to talk to the same person, asking them to provide evidence for why they took certain actions on another file, that's the classic, you know, example of not having independence.

Mr. Wasyliw: Is there best practices from other jurisdictions that sort of handle this in a different way that could sort of deal with this issue?

Mr. Shtykalo: So I'll stop short of saying there's best practices but there are other practices. The OAG Canada is responsible for their own. They have complete independence over their staffing decisions. And I believe Saskatchewan does have a different model as well, where they have a lot more control and aren't subject to the public service or civil service in Saskatchewan. There may be others but those are two that I'm aware of.

Mr. Wasyliw: There's some indication in the reports that there's also independence issues in relation to the logistical operations of the office. I think the example is lease and lease-hold improvements and things like that. I'm wondering if you can expand on that.

Mr. Shtykalo: So it's a similar situation. It doesn't happen as often but, for example, two years ago, our current lease—it was a 10-year lease—was expiring. We wanted to do—it had been 10 years since there'd been any sort of changes in the office and we wanted to do a little—work in a little bit of lease-hold improvements into the lease renewal process.

And, you know, same sort of thing as I was describing with the Civil Service Commission. Everything had to go through Accommodation Services, so our requests for the work we wanted to do, the plans we had in our office, the costs all had to go through the Accommodation Services process. And it's—to me, it puts us in that same situation with—as with the Civil Service Commission, where we're dealing with, this is an auditee, this is someone we can go into and audit and ask for—to provide us evidence, that we're essentially having to negotiate for ourselves.

Mr. Wasyliw: Again, is there better practice or is there a different way of doing this that would sort of address those type of issues?

Mr. Shtykalo: Again, I'm not aware of best practices but—and I don't know if this calls for some—if this would be something that would fall under a legislative change for our office, but just the authority for it to be our office that makes those decisions would be a better practice.

Mr. Wasyliw: Now there's some discussion in your report about seeking information from government sources and having it blocked due to Cabinet confidence. Is the definition of Cabinet confidence too broad under the FIPPA act and if so, how?

Mr. Shtykalo: So, yes, with respect to Cabinet confidences, we find the definition to be too subjective. I can point to other examples such as the federal OAG, where the Auditor General has full access to all Treasury Board submissions, Treasury Board minutes, provided unredacted.

What we're finding we're receiving here are highly redacted Treasury Board minutes with essentially no access to Treasury Board submissions. There is a process where, you know, we can try and negotiate access to Treasury Board submission, but it requires the approval of—I believe it's the clerk of executive council to access that.

* (18:50)

Mr. Wasyliw: Now, when you have these conflicts, and that, you think that the definition of Cabinet confidence is being too broadly exercised, and you think that this material would fall into your purview, how are those disputes resolved?

Does the government just simply say no to you, or can you go to a third-party arbiter who can look at the documents and then rule whether or not it fits the definition?

Mr. Shtykalo: So, this is an ongoing issue, and it's not something that comes up every day. But if it were to come to a point where we were doing an—a—an audit, and wanted to see—had—get access to the Treasury Board submission, one of the things that my predecessor was trying to do was come up with a process where these types of disagreements could be resolved, and we could sort of negotiate what level of access we could have.

But those discussions stopped. They're something that, you know, I've been thinking would be useful to try and resurrect, it would sort of set out sort of the terms of what we have access to and when and what the reasons would be, and what—and then have a process for when that disagreement comes up.

The other thing that I'll mention, sort of what we—how we've been operating for the last year, with respect to getting access to just Treasury Board minutes because part of our process on the audit of the Public Accounts is to do a review of Treasury Board minutes just to see if, you know, everything's been captured in the, you know, in the financial statements, if there's something that's happened or a decision that was made where we want to get more information because we feel it would, you know, affect something—a number in the financial statements.

We've requested the minutes, sensed a little bit of reluctance even receiving the Treasury Board minutes, but we're able to come up with a solution—well, sort of a make-do solution where they would provide heavily redacted minutes, and we would, you know, on sort of an ad hoc basis, if it was a minute referring to something that had been redacted, we would actually have to put questions forward: did this involve any amount of commitment of funds or whatever? So it was cumbersome process, but we were able to satisfy ourselves with enough access for the purpose of the public accounts.

But I would say there's definitely a need to establish a more productive process with respect to accessing that information.

Mr. Wasyliw: Again, is there other jurisdictions we can turn that they have some type of system in place to resolve these type of issues?

Mr. Shtykalo: We did undertake a survey, probably going back two or three years ago that talks about how Cabinet confidence is and access to Treasury Board minutes and submissions transpire in other jurisdictions.

Certainly, something that we can look at maybe updating and bringing forward, yes.

Mr. Wasyliw: Is there any office capacity issues that could prevent you from accepting time-sensitive section 16 special audits or allegation-based audits.

And if there are capacity issues, what are they?

Mr. Shtykalo: I would say at this time, there is no capacity issue. We're fairly flexible in our reporting requirements so that if we are—if we do have to reallocate resources from one audit to a section 16 audit, we're able to do that.

So, you know, unless we were swamped with many, many section 16 requests all at once, I don't foresee a capacity issue.

Mr. Wasyliw: Would resources be pulled off a project audit in order to accommodate these, or what—where would your resources, like, shift from and go to?

Mr. Shtykalo: Primarily, yes, we will have some performance audits under way and we could pool resources.

The other thing—we also have the option of reassigning financial statement auditors to work in projects that actually, when we can do that, we do that to get them, you know, sort of the experience of working on different types of audits in the office and they can learn from that. So that would be an option as well. I mean, of our whole complement of 50 people, we have a lot of opportunity to move things around.

Mr. Wasyliw: Is there a yearly average of special audit requests or allegation-based audits that you would get?

Mr. Shtykalo: So just from working in the office and seeing these things come through, I would say one or two a year would be about average.

Mr. Wasyliw: Are you set up resource-wise to deal with that many?

Mr. Shtykalo: So out of this section 16 audit requests that we get—have are a lot of times allegation-based. So they will involve an investigation or, you know, an audit done under forensic auditing—or forensic accounting standards.

So we actually have a dedicated area or division in our office for investigations and one of the things that I'm doing from a staffing perspective right now is working on putting in a director, similar to the directors that we have in performance audit, in financial statement audit and in IT audit.

Once I have that director in place, we have several investigators with their diploma in forensic accounting that are currently working but I would be looking at bringing in probably one more to work in that area.

Mr. Wasyliw: I'm wondering if you could give us an average time an audit would take from sort of the opening of the investigation until the initial report?

Mr. Shtykalo: Again, largely—depends largely on how big the scope of that particular audit is but, you know, we're probably looking on average anywhere from 12 months to 18 months from receiving the allegations to actually issuing a report.

Mr. Wasyliw: How would that compare with other jurisdictions?

Mr. Shtykalo: I'm not sure on that. That's not—we're—the way we run our investigations is a little bit unique. Some other offices do it but I think we're—I know some other offices are looking to our office to set up, sort of, the same capacity in their offices.

So I don't have a comparator but I will, again, mention that this is something that I'm committed to improving in our office is the timeliness of our reports and that doesn't just, you know, apply to investigations but also on the performance audit side and on our IT audit side. I think there's things that we can do, such as putting in—utilizing T-minus schedules, holding staff to account for their hourly budgets and sort of creating a culture of more timeliness or efficiency in the office.

Mr. Wasyliw: So what factors would slow an audit down?

* (19:00)

Mr. Shtykalo: So a few things that I can talk about that might influence the, you know, or affect the timeliness of a performance audit would be, first and foremost, the availability of information and the availability of public servants to be available to answer our questions. And, you know, one of the things that we've seen, you know, over the past four or five months, is that availability become a little bit more of a challenge with people working from home and working remotely.

Something else that might affect the length of time of an audit would be, like, you know, I keep talking about scope, but in particular, you have a certain amount of control when you're planning an audit. Do you want to look at one objective, do you want to look at three, and if you do choose to go three, how many criteria are each of those objectives going to have.

My philosophy on something like that is, I would rather do a more limited scope audit, like with one objective, issue it, and then if it's necessary, do another audit with the other objective. I think that I keep wanting to push our office to produce these timely reports as opposed to, you know, larger, all-encompassing audits.

The other thing that came to mind affecting timeliness is sometimes if we're doing an audit that's heavily reliant on data—just the ability to access the data from a technology standpoint and implementing

data analytics on it, sometimes if it's a data-heavy audit, that can add some additional time to our work.

Mr. Wasyliw: So, you've indicated access to staff could be an issue. How about access to information? Would that slow down the process if you're having difficulty getting certain information from the government?

Mr. Shtykalo: Yes, absolutely.

Mr. Wasyliw: So how can we sort of get around those issues to speed things up, whether access to staff or access to information?

Mr. Shtykalo: So to kind of circle back to a point I made earlier, having taken over, one of the things that I think is really important is communication. And so as far as, you know, accessing information, it's not that, you know, we're experiencing what we see as intentional delays coming from departments, but the more closely we work, you know, with the departments and communicate on a timely basis and be clear in our expectations in what we need and what we're looking at, the better information we're going to get from them.

So I think it's working, you know, it's things that we can do in our audit that we're going to be looking to facilitate the—this type of access to information that would serve as evidence for our audits.

Mr. Wasyliw: Now, you talk in your Strategic Priorities Plan, July 2019, page 28, that you're required to do a number of statutory audits, and it seems to be a concern. Because I think your view is, is that many of these are low-risk audits and it's preventing you from looking into the high-risk areas, which is arguably more material to what you need to be doing. Is that a fair characterization or statement of your concern or position or however you want to phrase it?

Mr. Shtykalo: So, in our Strategic Priorities Plan and in our operations report where we're reporting on our priorities, there's two areas, right. There's performance audits and financial statement audits, and we talk for both about strategic significance to the Assembly.

The statutory audits that we refer to are specifically financial statement audits where we're named as the auditor in the legislation of an organization.

So, yes, one of the things that we want to do is to— a lot of those audits are very small, very tiny entities or boards that we're looking at, that we've been doing the audit for 20 years.

What we want to do is enhance sort of our financial statement mix. Like, we haven't ever done an audit of a—in the education sector, other than PSFB. Like, we haven't done a school division. We've never looked at a financial statement audit of a health entity other than Manitoba Health insurance's plan.

So the idea from the financial statement side is to find ways to relieve ourselves of the obligation on these smaller, I would say, less significant entities, and get a wider spread into the government reporting entity.

Mr. Wasyliw: So would there have to be a statutory change, or how do we remedy this so that we sort of repriorize the work?

Mr. Shtykalo: So that would be potentially one way to do it, would be to go through and eliminate the, you know, the requirement from each statute.

But there are other things that we talk about, our action plan here. Because for several years, we have—if we're going to devote half our time to doing performance audit, we've already had to take measures in our office to relieve ourselves of some of the statutory financial statement audits. Because if we were to do all of the financial statement audits directly that we're responsible for, that's all we would be doing.

So because we want to kind of do half financial statement, half project audit, what we do is we engage agent auditors. So we will hire a firm for a three-to-five-year term to provide the audit services. They go in, they do the work, we review the work, they provide their audit opinion to us. We're statutorily required to report on it, so we are the ones that issue the opinion. But it significantly, obviously, cuts down on the amount of time that we must spend on doing these financial statement audits.

So that's an option, kind of, going forward. We could do more agent audits, but the problem—the other side of the coin is, okay, so we've given up these audits, we need to bring more audits in, and that's not as clear on how that's going to happen, unless, of course, a legislative change went through listing us as the auditor, but then we might be back at square one.

So we are looking at options like we're tracking when, you know, current organizations' contracts are up with their auditors, and for the ones that are—auditors are appointed through the OIC process by the Lieutenant Governor-in-Council, what I'm wondering is if there's a way that we could sort of get a right of first refusal for these appointments so that we could

become the auditor for five years instead of going to a public firm.

So those are some of the options that we're looking at.

Mr. Wasyliw: So you talk about your implementation rate of audit recommendations at the Public Accounts Committee over a three-year issuance, that it's currently between 60 and 70 per cent, and that an acceptable rate would be 85 per cent.

So what type of things have to change, in your opinion, to get to that 85 per cent?

Mr. Shtykalo: Absolutely, one hundred per cent, Public Accounts Committee has to call the departments in and hold them to account on a timely basis.

We have, you know, health reports going back 10 years that have never been to Public Accounts Committee. If these departments aren't being brought in to be held account for their recommendations, they're going to sit there. They don't have any motivation to act on them.

We as an office are powerless as far as forcing departments. The only thing, you know, we can do is issue our follow-up report, which might be a source of embarrassment for a department or organization.

But, you know, part of the, you know, when we're seeing a trend of the implementation of recommendations and you square that with kind of the trend we're seeing with the number of Public Accounts meetings over the past years, there's a correlation. So I, you know, I think that's—would help one hundred per cent.

* (19:10)

Mr. Wasyliw: In one of the reports, I think there was mention that your office has created a position paper or some type of guide of changes or recommendations to the Public Accounts Committee, that they have been provided to the Chairs of this committee. There's just passing mention of it.

Do you know—I've never seen the report.

Mr. Shtykalo: Okay, I think I've got this sorted out.

So, last year the Public Accounts Committee at the time didn't hold a meeting to review an audit, but there were some procedural meetings and a professional development in-camera meeting on May 6th, 2019, and it was at that meeting that we

provided the committee this analysis of best practices for public accounts committees.

Mr. Wasyliw: Given the change in membership here, is it possible to re-forward those recommendations for the rest of the committee?

Mr. Shtykalo: Absolutely. I'd be happy to.

Mr. Wasyliw: I just have a couple final questions here.

What I'm curious about is that, when you get a response from a department for one of your recommendations, is there an assessment about the quality of the government's response to the recommendation?

My concern is to the long preamble—is that a department could pay lip service to your recommendation and it's more symbolic than an actual genuine embrace of that thing. And I'm wondering if you could expand how you do that and how you assess the quality of it, and what would happen if it's found wanting.

Mr. Shtykalo: Okay, so before I get into our specific process on what we do with a follow-up process now, I just want to put it out there and communicate that one of the things that is very important to us now going forward in—on any of our audits where we're making recommendations or before we issue our report, we sit down with the department and make sure they understand what we're recommending and whether that recommendation makes sense. So that helps, you know, but let's just say on a go-forward basis.

With respect to the work we do on follow up, so we will get—we'll send out our, you know, our status template and they'll fill it out and send it back to us. That is then assigned to one of the auditors in the office to go through. They're asked to provide any supporting documentation. So if it was a policy that was supposed to be put into place, we will have asked them for that. A lot of times that does require kind of another round of follow up by our auditors with these entities to—so that they can substantiate any of the, you know, status claims that they're making.

But as far as assessing the quality of the response, like, was it a good policy or was it not, we don't quite go that far. We check to make sure that what they're claiming for status they can support through, you know, evidence of taking the action so that when they come to Public Accounts Committee, you know, they can answer those types of questions.

The other thing that I will just add to this, too, is this is a perfect example of where I think action plans would really help the Public Accounts Committee because if they're issued a request for an action plan, you know, a month after we issue our report, the committee then has that action plan to hold them—hold the department to it on the next, hopefully soon, Public Accounts Committee meeting with the department.

Mr. Chairperson: Thank you.

Are there any other questions? Seeing none, I'll put the question on the reports.

Auditor General's Report—Operations of the Office for the year ended March 31, 2017—pass.

Auditor General's Report—Operations of the Office for the year ended March 31, 2018—pass.

Auditor General's Report—Operations of the Office for the year ended March 31, 2019—pass.

Auditor General's Report—Operations of the Office for the year ended March 31, 2020—pass.

Auditor General's Report—Operations of the Office, Strategic Priorities Plan for 2019-20 and '21-22—pass.

Now I will recognize Mr. Smith, who has a motion to present to the committee.

Mr. Andrew Smith (Lagimodière): Thank you, Mr. Chair.

I move

THAT the Standing Committee on Public Accounts adopt the following protocols which shall remain in effect until the end of the 42nd Legislature:

Within 48 hours of a new report by the Office of the Auditor General being tabled by the Speaker, whether during sessional or intersessionally, the Chairperson and Vice-Chairperson are to send a joint letter requesting an action plan regarding the implementation of the Auditor's recommendation to the department, Crown corporation or other entity which is the subject of the report. A deadline of 90 days from that date of the letter will be allowed for a response.

Progress reports seeking information regarding the status of the implementation of the Auditor's recommendations may be requested from any department, Crown corporation or other entity which is the subject of a report by the Office of

the Auditor General by other of the following means:

- (a) the Chairperson and Vice-Chairperson may request a progress report by joint letter or,
- (b) with unanimous consent, the Standing Committee on Public Accounts may ask the Chairperson and Vice-Chairperson to request a progress report by joint letter. A deadline of 28 days from that date of the letter will be allowed for a response.

* (19:20)

Mr. Chairperson: It has been moved by Mr. Smith that—

I move

THAT the Standing Committee on Public Accounts adopt the following protocols which shall remain in effect until the end of the 42nd Legislature:

(1)—someone should say dispense, otherwise I'm going to read it all again. [*interjection*] It has to be read?

Oh, that's fine. I don't mind doing that. Start from the beginning? Okay. Alright, I will start from the beginning here.

I move

THAT the Standing Committee on Public Accounts adopt the following protocols which shall remain in effect until the end of the 42nd Legislature:

(1) Within 48 hours of a new report by the Office of the Auditor General being tabled by the Speaker, whether during session or inter-sessionally, the Chairperson and the Vice-Chairperson are to send a joint letter requesting an action plan regarding the implementation of the Auditor's recommendations to the department, Crown corporation or other entity which is the subject of the report. A deadline of 90 days from the date of the letter will be allowed for a response.

(2) Progress Reports, seeking information regarding the status of the implementation of the Auditor's recommendations may be requested from any department, Crown corporation, or other entity which is the subject of a report by the Office of the Auditor General by either of the following means:

(a) The Chairperson and the Vice-Chairperson may request a progress report by joint letter or

(b) With unanimous consent, the Standing Committee on Public Accounts may ask the Chairperson and the Vice-Chairperson to request a progress report by joint letter. A deadline of 28 days from the date of the letter shall be allowed for a response.

So the motion is in order. The floor is open for questions.

Mr. Smith: I want to put some words on the record to provide an overview of the Public Accounts Committee's new process for requesting action plans and progress reports from government departments or entities with regard to recommendations made in audits by the Office of the Auditor General.

The decision to implement the new processes has not been taken lightly. This has come from a collaborative effort of all members of the Manitoba Public Accounts Committee with the full support of the Office of the Auditor General and the clerks.

The purpose of the action plan and progress report are to increase the effectiveness of the Public Accounts Committee and to ensure that meetings, that they are called, are to address specific recommendations that the committee wishes to question the deputy minister of a department or the representative from a government entity on.

The templates used for the action plan and progress reports are based on those used in other jurisdictions and the documents used by the Office of the Auditor General when they perform a scheduled follow-up of their recommendations. This means that department should be familiar with the layout of these documents and the type of information being requested.

It should be noted on the record that PAC cannot demand this information from a department or entity. The committee can also—cannot enforce the time scales that are being requested. However, the committee believes that the documents that will be requested and the time scales being asked are very reasonable and will ultimately greatly assist the committee become more efficient.

It takes a lot of preparation by departments, PAC members, and the Office of the Auditor General to prepare for a committee. Receiving a completed progress report or action plan may mean that PAC

chooses not to call a meeting where, historically, they would have, saving a huge amount of effort all around.

Action plans: an action plan outlines how a department or government entity plans to address recommendations made by the Office of the Auditor General that were made in a new report. This information is very useful not only to the Public Accounts Committee, but also the Office of the Auditor General when they approach the department or entity to perform their first follow-up report.

When a new report is tabled by the Speaker, within 48 hours a letter is sent by the PAC clerk to the relevant department or entity on behalf of the Chairperson and Vice-Chairperson of the Public Accounts Committee requesting that an action plan be completed and returned to the PAC clerk within three months. A template for the department to use will be provided alongside the letter.

The Public Accounts Committee will then meet in camera where the AG will provide a briefing on the audit report and any insights based on review of action plan as to which aspects of the report the committee may want to focus on if the decision is made to call a future meeting.

The AG will be available to answer any questions or concerns from members' review of the action plan.

For progress reports: A progress report is a request for an update from a department or entity on the progress they have made in addressing the recommendations set out in an AG report or subsequent follow-up.

The Office of the Auditor General only performs three follow-ups on their recommendations. After they are completed, PAC is responsible for investigating what progress, if any, a department is making on any outstanding recommendations.

The document would be a vehicle for PAC to accomplish this without needing to call the department or entity as a witness before the

committee. When the committee believes, either on their own or in consultation with the Office of the Auditor General, that a progress report is to be requested from the subject of a report, by the office of the AG, the PAC clerk will send a letter to the relevant department or entity on behalf of the Chairperson and Vice-Chairperson. The letter will request that a progress report be completed and returned to the PAC clerk within 28 days, and be accompanied by a template and guidance on how to complete the progress report.

The Public Accounts Committee will then meet in camera to review the information contained in the progress report with insight provided by the Office of the Auditor General based on its three previous years of follow-ups. If decision taken, to call an entity to a meeting, the steering committee will schedule for a future date.

Mr. Chair, I want to finish by saying this is an initiative, it's brand new to Manitoba's Public Accounts Committee and constitutes a big change in how we will operate moving forward. There may be teething problems or new ways of completing the processes that we have not thought of. The committee will be conscious of this and, if need be, will meet to discuss them, and any changes will be put on the record.

Thank you, Mr. Chair.

Mr. Chairperson: Is there any further questions on this motion?

Hearing none, is the committee ready for the question? *[interjection]* Yes?

Shall the motion pass? *[Agreed]*

The hour being 7:27, what is the will of the committee?

Some Honourable Members: Rise.

Mr. Chairperson: Committee rise.

COMMITTEE ROSE AT: 19:27

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