



OFFICE OF THE
MERIT COMMISSIONER

2008/2009 ANNUAL REPORT



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OFFICE OF THE
MERIT COMMISSIONER

E. George MacMinn, Q.C.
Clerk
Legislative Assembly of British Columbia
Parliament Buildings
Victoria BC V8V 1X4

Dear Sir:

It is my honour to present to you, in the current absence of a Speaker, the 2008/2009 Annual Report to the Legislative Assembly. This report covers the period of April 1, 2008 to March 31, 2009. I look forward to having this tabled when the Legislative Assembly is called into session.

As an Officer of the Legislative Assembly I would be pleased to appear and report further on these matters at the request of the Members of the Legislative Assembly.

Respectfully submitted,



Joy Illington
Merit Commissioner

Victoria, British Columbia
August 2009

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Message from the Merit Commissioner

Government must deliver public services to British Columbians from a limited public purse. A qualified and engaged public service is critical to tackling the present and future challenges facing our province. As the largest corporate employer in the province, the BC Public Service is accountable to hire and to promote employees based on the principle of merit, through a fair process, without political influence.

The Office of the Merit Commissioner has a mandate through the *Public Service Act* to provide independent oversight of merit-based staffing. We examine how appointments were made and whether individuals appointed were qualified for the job. We report the results to organizational heads with the objective that poor performance in merit-based staffing be corrected and improved.



The Commissioner reports the oversight results annually to the 85 Members of the Legislative Assembly. This independent report supports the accountability system for democratic and responsible government.

As the BC Public Service aims to meet the goal of being the best public service employer in Canada, we work with ministries and managers to have them understand the critical role of merit in the corporate culture. We emphasize the linkage between staff who are confident that staffing practices in their work place are merit-based and staff who are productive and willing to go the extra mile for their employer. BC Stats has demonstrated there is also a clear connection between employees who are engaged and public satisfaction with their service delivery.

Audits

In 2008, we began a special audit of temporary appointments made for a term of seven months or less. These represented almost one quarter of all the hiring that year. This is the first time promotional appointments of this kind have been audited. Since these appointments are intended to be short term, no competitive process is required, as it would be if the appointments were being made for longer than seven months. This report provides some

detail on the first stage of the audit, which is completed. The audit found that 79 percent of these short term appointments were finished within seven months. We continue to examine the 21 percent which continued longer, some of which were extended many times.

The 2007 annual audit, the largest to date, found that in one out of five appointments managers were not following basic hiring policy, collective agreement or statutory obligations that affected a merit-based process. Our annual report made recommendations for some systemic changes to address the problem. Government responded positively and we continue to monitor their implementation.

In 2008, our staff and resources were invested in concluding the 2007 annual audit and preparing for a change in the timing of our annual audit process for 2009. This has paid off. By auditing within weeks of an appointment being made, organization heads have received more timely reports, which improves accountability and prevents recurring mistakes. This report contains the results of the first quarter of the 2009 annual audit.

Current Trends

There has been a marked decrease in the number of new appointments made in 2009, compared to the same time period in the past two years. This may be attributed to the negative forecast for growth of the provincial economy this year, as set out in the 2009/10 provincial budget.

An actuarial analysis of future staffing needs has been conducted by the BC Public Service. It takes into account the projected retirement rates, voluntary exits and the share of the skilled labour force that will be available for recruitment. A revised forecast, given the economic slow down, still predicts that by 2015 the size of the public service may be reduced by 20 percent, even though hiring will continue.

Since 2006, the annual Work Environment Survey has reported a 12 percent increase in confidence in merit-based staffing. There is still room for improvement. The 2009 Survey completed by 87 percent of employees showed that only 52 percent agreed the selection of a person for a position in their work unit is based on merit and only 53 percent agreed the selection process was fair.

The BC Public Service Agency has announced plans to become the corporate recruiter, referring pre-qualified candidates to managers for final selection. This should increase efficiency and consistency for applicants, as well as for managers. We support this human resource model and expect that the levels of merit-based staffing and the confidence in this staffing will improve.

Going Forward

The Office continues to hear from job applicants who question hiring decisions. This reinforces the commitment to survey employees to determine whether they are aware of the *Public Service Act* provisions for the review of appointment decisions. Now that a baseline has been set through annual and special audits, future audits will focus on areas where merit-based appointments may be at risk.

Effective recruitment must attract the full spectrum of talent. A public service hired through a merit-based process should reflect the true diversity of people, skills and ideas available in the province's workforce. Our office is looking into how other organizations have increased diversity while upholding merit.

My Thanks

During my three year term, the services of our office have been recognized as relevant to government excellence. We have been asked to speak about our work internationally and nationally. It has been an honour to have served as the first independent Merit Commissioner and a privilege to be entrusted with this responsibility. No one takes this trust more seriously than the professionals who staff this small office, our contracted auditors and the members of my Advisory Committee. Special thanks are due to each one of them for their diligence, dedication and support. I would like to acknowledge the Members of the Legislative Assembly who had the foresight to create this unique office dedicated to accountability for a qualified and non-partisan public service.



Joy Illington
Merit Commissioner

The Office of the Merit Commissioner

Corporate Overview

The Merit Commissioner is independent of government, appointed for a three year, renewable term by the Legislative Assembly and reports to all the members of the Legislative Assembly. The mandate of the Merit Commissioner is to provide oversight of and insight into the conduct of merit-based hiring in the BC Public Service. The Merit Commissioner provides credible and relevant information about the degree to which government is fulfilling its duty to hire and promote employees based on the principle of merit.

The Office of the Merit Commissioner is guided by the principles of fairness and impartiality. We apply to others the same standards of integrity in performance and accountability that we apply to ourselves. All those who contact the Merit Commissioner can anticipate respect and, where it is needed, confidentiality. We are passionate about our work and understand that a vital part of being independent is to have the courage to deliver facts and recommendations about what must be improved, as well as reporting progress and accomplishments.

To carry out this mandate, we focus on three business lines: the annual and special audits; independent staffing reviews; and education about the requirement of merit-based staffing, including its impact on employee engagement. The products of our work include audit reports, focus-group studies, review decisions, and educational materials. These outputs all support the long-term goal of building public confidence and a strong consensus that staffing is based on the merit principle and fair processes. The Office works toward that goal by producing timely reports about merit-based staffing on which government will act to produce changes in merit-based staffing conduct.

Audits are carried out in accordance with generally accepted audit standards using methodology reviewed and supported by government's Internal Audit and Advisory Services. BC Stats ensures the necessary level of rigour and objectivity in obtaining random and representative samples. The Commissioner uses qualified performance auditors who are trained to ensure that the same standard of review is applied to all audits.

Audit Advisory Committee

The Office incorporates quality assurance reviews into the audit process. Further consultation, advice, challenges and reviews are provided by an Audit Advisory Committee, which was formed for this principal role. In addition, the Audit Advisory Committee meets three times a year to examine the Office's work plans. The committee members were selected on the basis of their professional qualifications, relevant knowledge about the public service, and expertise with performance audits.

Appointments on Merit

The Principle of Merit

Merit has been the foundation of staffing in the BC Public Service for the past 100 years. Over that time, it has developed into the provision that exists today in section 8 of the *Public Service Act*. This states that all appointments to and within the public service must be based on the principle of merit.

Merit means that appointments are made on the basis of an assessment of competence and ability to do the job, and are non-partisan.

The Act also sets out a number of factors that must be considered in determining merit. These include the applicant's education, skills, knowledge, experience, past work performance, and years of continuous service in the public service.

The recruitment and selection processes that result in merit-based appointments include these essential elements: the process used to recruit, select and assess is transparent and fair; the assessment used is relevant to the job; and decisions that are made are reasonable. Merit-based hiring considers the legislation and hiring policy. Where applicable, it also considers collective-agreement requirements.

The Act distinguishes between permanent and longer-term temporary appointments and those that are seasonal or short-term temporary appointments.

Specifically, permanent and temporary appointments exceeding seven months are to be the result of a process designed to appraise the knowledge, skills and abilities of eligible applicants. Employees with permanent and longer-term appointments form part of the core professional career public service on which government relies for advice and expertise. It makes sense that the Act sets a more rigorous standard for making these types of appointments.

These appointments require recruitment to attract applicants. Individuals are assessed for merit against the selection criteria required for the job. A competitive process allows applicants to be rated and ranked relative to one another, so that those who are successful are the best-qualified candidates.

Auxiliary, seasonal appointments or those for temporary periods of seven months or less still need to be based on a consideration of individual merit, but they do not require a competitive process.

Appointments
on Merit

BC Public Service Staffing System Overview

The *Public Service Act* lays out the responsibilities of the head of the BC Public Service Agency and the Merit Commissioner, each of whom is accountable for meeting their respective obligations with respect to merit-based appointments in the public service.

BC Public Service Agency Head/Delegated Authority

The Agency head has broad personnel management authority in the public service, including policies and regulations, and staff training and development. More specifically, the Agency head is responsible for the recruitment, selection and appointment of people to and from within the public service. The Agency head is accountable to a minister whose portfolio includes the BC Public Service Agency.

The Agency head has delegated the hiring and promotion functions to deputy ministers or their equivalents. The deputy ministers, acting together as a council, have developed and implemented a corporate human resource plan. The plan is designed to ensure that the public service has the leadership, motivation, skills and training to keep pace with social, economic and technological changes, and to deliver high quality services to an increasingly diverse population.

Most staffing activities have been further delegated to individual managers, who are knowledgeable about the operational needs of the jobs to be done, and the qualifications required to do those jobs. Managers are guided by corporate policies and guidelines from the BC Public Service Agency and, where applicable, by the provisions of the collective agreements.

Merit Commissioner

The Commissioner provides independent oversight of the application of the merit principle in hiring and promotions. The Commissioner uses random audits to assess whether:

- recruitment and selection processes were properly applied, to result in merit-based appointments, and
- the individuals appointed were qualified for the job.

The Commissioner provides detailed audit reports to the deputy minister or head of any organization in which the Office has audited appointments. These results are meant to be shared with

the hiring managers, as they have been delegated the responsibility to decide how best to recruit, assess and select applicants for appointments. An independent audit is one way in which managers can be held accountable for their results: to recognize work that has been done well; and for heads of organizations to take action so that identified problems are not repeated.

Upon an employee applicant request, the Commissioner provides a final and binding review of the application of merit for appointments to positions in a bargaining unit. Following a review, the Commissioner delivers a decision that either upholds the merit of the appointment, or directs the deputy minister to reconsider the appointment. An independent review is another way in which managers are held accountable for applying the principle of merit in their hiring decisions.

The Commissioner is accountable to all members of the Legislative Assembly and reports, on an annual basis, the results of monitoring merit-based appointments.

Shared Interest

Everyone who works in the public service has a stake in merit-based hiring and promotions. Employees' opinions on merit-based and fair staffing practices are solicited every year in the Work Environment Survey administered by BC Stats. About 79 percent of the employees are represented by one of three bargaining associations, which support merit-based staffing: the BC Government Employees' Union (BCGEU), the Professional Employees' Association (PEA), and the Nurses' Bargaining Association. The BC Excluded Employees' Association also has a long record of support for merit-based hiring.

Public Service Staffing System Summary

Merit Commissioner	<ul style="list-style-type: none"> • Monitors and reports on merit in staffing through random audits. • Provides final and binding decisions on merit in staffing reviews for bargaining-unit positions. • Reports annually to the Legislative Assembly.
BC Public Service Agency Head	<ul style="list-style-type: none"> • Sets staffing policies and the accountability framework for human resource management with the Deputy Ministers' Council. • Provides staffing support and training to client groups in the BC Public Service. • Delegates responsibilities for staffing activities to deputy ministers or heads of organizations. • Sole authorization for direct appointments in unusual or exceptional circumstances.
Deputy ministers/ organization heads	<ul style="list-style-type: none"> • Work as a Council to carry out the corporate human resource plan. • Sub-delegate staffing activities to line managers/supervisors. • Respond to the second step in a staffing review process. • Receive Merit Commissioner's decisions on audits and reviews.
Managers/supervisors	<ul style="list-style-type: none"> • Responsible for recruitment, selection and appointment decisions. • Responsible for the first step in a staffing review process (i.e., providing feedback to applicants).
Employees	<ul style="list-style-type: none"> • Provide views on merit-based hiring and fair process by completing the annual Work Environment Survey. • As applicants, may request staffing reviews for proposed hiring or promotion decisions that they believe are not the result of a merit-based process.

The Year in Review: 2008/09

Annual Audit 2009

New Audit Cycle

As of January 1, 2009, the Office has been piloting a new approach to the annual audit of appointments. Rather than waiting until the end of the calendar year before starting the audit cycle, appointments are now audited shortly after they have been made. The audit will continue throughout the calendar year, with periodic reporting.

The large 2007 annual audit took from mid-2007 to September 2008 to complete. It provided a valuable lesson as much of the delay was attributable to appointment files that were in disarray, and that those responsible for the hiring decisions had moved to other roles. The transition to a new audit approach for 2009 meant foregoing the annual audit of 2008 appointments. This decision was made after consultation with our Audit Advisory Committee and experts at BC Stats. An examination of the risks and benefits led to the conclusion that the advantages of an immediate audit exceeded the learning opportunities likely to be gained by doing an annual audit of 2008 appointments.

The primary benefit of an immediate audit is the ability to report audit findings faster. The detailed audit reports, used for learning and accountability purposes, are now provided to the organization heads on a quarterly basis. This is better service.

A secondary benefit became evident right away: organizations are providing better documentation in a timely manner and our auditors have indicated that hiring managers are available to recall details or provide additional evidence.

This Office has already received positive comments in response to our detailed quarterly audit reports, confirming that they are a useful learning tool. For example:

- “You’ve raised valid points that we need to be aware of in future”
- “The clarity provided will help if faced with similar situations in the future”
- “We appreciate hearing your recommendations and will ensure we incorporate these into future processes”

- “It is evident from this experience, however, that my office can improve its documentation...”

Scope

The 2009 annual audit covers appointments made during the 2009 calendar year, and focuses on those appointments made under section 8 of the *Public Service Act*: specifically, permanent appointments and temporary appointments that exceed seven months. The Act specifies that these appointments must be made following a process that assesses applicants, i.e., a candidate’s individual merit is assessed and ranked relative to other candidates’. Auditing these appointments reveals the most information about how the principle of merit is being applied.

Direct appointments under section 10(b) of the *Public Service Act* are also included in the annual audit to ensure that organizations are appropriately seeking the approval of the head of the BC Public Service Agency. Other appointments that fall under the jurisdiction of the Merit Commissioner, but not included in the annual audit, are short-term temporary appointments for seven months or less, and auxiliary appointments.

Ministries and organizations who make appointments under sections 8 and 10 of the *Public Service Act* are subject to audit. These include appointments to positions in a bargaining unit (BCGEU, Professional Employees’ Association or the Nurses’ Bargaining Association) and to management excluded positions. A list of organizations subject to oversight is included as Appendix A.

Sampling Methodology

Every few weeks, an appointment population is obtained from the BC Public Service Agency, taken from the Corporate Human Resource Information and Payroll System (CHIPS)¹. From this, BC Stats provides this Office with a random sample of approximately 10 percent of the population of appointments for the period of time being sampled. To ensure that the random samples are representative of the actual population of all

¹ Three organizations do not enter their appointment information in CHIPS. The Liquor Distribution Branch is included in the audit through a separate reporting of appointment information, but the Forensic Psychiatric Services Commission and BC Mental Health Society are not included in the annual audit.

appointments made across the public service, three categories are used to stratify the appointment data: (1) size of ministry or organization; (2) appointment type (permanent, temporary and direct appointments); and (3) bargaining-unit and excluded appointment status.

A detailed report by BC Stats, that will describe the total appointment population for the 2009 annual audit and explain the method used to make the audit selection, will be included in the 2009/10 Annual Report.

Audit Criteria

The *Public Service Act* sets out the following test for assessing merit:

- recruitment and selection processes were properly applied to result in appointments based on merit, and
- the individuals appointed possessed the required qualifications for the positions to which they were appointed.

The audits are based on the underlying premise that the manager of the position, who understands the needs of the business, is in the best position to decide what qualifications and competencies are critical for a position, and the most suitable tools and methods to assess them. Provided that the hiring process is reasonable and job-related, the audit is not designed to replace the judgment made by managers.

Using an established audit program, and based on documentation or other evidence provided by the organization, the auditor reviews the steps and decisions made throughout the recruitment and selection process to determine whether the merit principle was upheld. For example, the auditor confirms whether: the basic legislative, policy and collective-agreement requirements, relevant to merit-based hiring, have been met; the factors of merit, as stated in the *Public Service Act*, have been considered (i.e., education, skills, knowledge, experience, past work performance and years of continuous service in the public service); employees have been appointed through a fair process, without political influence; and hiring decisions were communicated to employee applicants. Full details of the program used by the auditors are available on the Merit Commissioner's website: www.meritcomm.bc.ca, under "Annual Audit".

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Interim Results – 1st Quarter of 2009

This report is an interim, quarterly report of audit findings and represents audits for the period January 1st to March 31st, 2009. The overall results for the 2009 audit, including year-to-year comparisons, extrapolations, and findings will be reported in the 2009/2010 Annual Report.

This Office audited 75 appointments, representing 24 ministries or organizations. Of the appointments audited, 64 percent were of current employees and 36 percent were of external candidates.

As the sampling frame was designed to provide accurate and unbiased estimates for the entire year, the findings in Table 1 have not been extrapolated to the entire population of appointments. These first quarter results, while sampled proportionately across the three categories of interest, may not offer a precise representation of the appointment population.

**Table 1: Merit in the Recruitment and Selection Process
Interim Report - 1st Quarter Results – 2009 Annual Audit**

Conclusion	Number of Appointments	
Merit applied	48	(73%)
Merit applied with exception ¹	15	(23%)
Merit not applied	3	(4%)
Unable to determine	-	-
Total appointments audited	66	100%
Out of Scope	9	(12%)
Total appointments sampled	75	-

¹ Process was merit-based, but there were exceptions to hiring policy or collective-agreement obligations.

Our analysis of these audit findings provides some insight into the current state of merit-based hiring, and identifies issues and trends.

First of all, the audit did not find that any appointment was based on political patronage. However as reported in one competition, the audit did find evidence that an internal candidate appointed did not possess the qualifications that were advertised as required for the position. This audit is described in the section ‘Assessment’.

Of the 66 appointments audited, 73 percent were the result of a merit-based process with no exceptions. A further 23 percent were also based on merit, but they involved exceptions to hiring policy or collective agreement obligations. Although the appointment decisions were not affected, the audits found substantial flaws, errors or omissions that have been brought to management's attention for improvement.

Four percent of the appointments were not the result of a merit-based process. In one case, the audit found an unreasonable assessment process in which candidates were treated inconsistently. In two cases, there was an inaccurate assessment of employee candidates' years of continuous service, a factor of merit. In these cases, the integrity of the appointment process was compromised. These cases will be discussed in this report.

Of the 75 sample appointments audited in the first quarter, nine appointments were found to be out-of-scope, due primarily to CHIPS coding errors of appointment type. The error rate is approximately 12 percent of the appointments sampled. This has been brought to the attention of the head of the BC Public Service Agency as it calls into question the reliability of CHIPS data, which is the source of many BC Public Service reports or studies. Further action on quality control is required. The erroneous appointment information this Office receives from CHIPS results in extra workload for the organizations, as they must provide this Office with appropriate evidence to confirm that these appointments are out-of-scope, and notify the BC Public Service Agency to amend the coding in CHIPS.

Analysis

The problem areas identified by the audit in the first quarter are indicated in Table 2, and provide some insight into the hiring practices of managers. These findings have been examined on a systemic basis from the point of view of improving the merit-based system of hiring.

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**Table 2: Reasons For Findings Other Than Merit
Interim Report - 1st Quarter Results – 2009 Annual Audit**

Issue	Merit not applied	Merit with exception	Unable to determine	Total
Appointment process	–	–	–	–
Assessment	1	2	–	3
Documentation/ evidence	–	2	–	2
Notification	–	5	–	5
Past work performance	–	1	–	1
Standards of conduct	–	–	–	–
Years of continuous service (QRE calculation for BCGEU)	2	5	–	7
Total	3	15	0	18

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Appointment Process

- *Public Service Act, section 8(1)*: “Subject to specific exemptions in section 10, appointments to and from within the public service must (a) be based on the principle of merit, and (b) be the result of a process designed to appraise the knowledge, skills and abilities of eligible applicants”.
- *01. Human Resource Policy Statement - Hiring and Deployment (2009)*: “All job opportunities are open to both current public servants and outside applicants. Applicants cannot be eliminated from consideration because they are not currently employed in the BC Public Service.”

The audits determine whether the recruitment process used a reasonable and transparent approach to attract an appropriate candidate pool with the necessary skill set, given the requirements of the position, the organization and the public service.

The following are some general observations about recruitment and selection processes noted in the first quarter. All but one of the competitions audited were open to candidates from outside the public service. In 39 percent of the competitions only one appointment was made and no eligibility list was established.

Eligibility lists were established in 40 percent of the competitions indicating that other candidates had been assessed as eligible to be appointed to similar positions within a specific period.

The audit also noted three appointments made from a pilot project which may be expanded for a new, more corporate approach to hiring. The Candidate Referral Service is a program administered by the BC Public Service Agency. It offers hiring managers a staffing service for quick access to candidates who have been pre-qualified for specific administrative or financial officer positions in the Victoria area. This program provides candidates with a one-window application process. It also provides hiring managers with efficiencies resulting in faster hiring decisions, as the Agency advertises the jobs and completes the initial candidate assessments through screening and comprehensive and standardized testing. Managers are typically provided with three referral candidates who best match the type of job and skills required, and they are required to conduct a final assessment of candidates against the specific job requirements, including their past work performance, before making a hiring decision based on relative merit.

This approach by the Agency removes much of the administrative burden of hiring from managers. It is a good way of keeping well-qualified candidates under consideration for positions across the public service, rather than just for one position in one ministry.

Of seven appointments to administrative positions in Victoria that were audited, only two were made through the use of the CRS, and five were the result of specific competitions posted by the hiring manager.

Assessment

- *Public Service Act, section 8(2)*: “The matters to be considered in determining merit must, having regard to the nature of the duties to be performed, include the applicant’s education, skills, knowledge, experience, past work performance and years of continuous service in the public service.”
- *01. Human Resource Policy Statement - Hiring and Deployment (2009)*: “Hiring managers may choose the most appropriate method of assessment as long as it provides an informed, transparent, and rational decision.”

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Our audits are conducted on the premise that managers are responsible for determining the critical qualifications required for a job and for choosing the tools and methods effectively to assess candidates against these qualifications.

The use of multiple assessment methods adds credibility and validity to the appointment process. The majority of managers used multiple assessment methods to make their selection decisions, with 71 percent using tools such as written exams, assignments, and/or oral presentations in addition to interviews. The remainder used only an interview to assess candidates, with half of these interviews relying solely on the assessment of behavioural competencies. The audit found that all managers provided evidence that an assessment of past work performance had been done through reference checks.

Competitions are designed to result in the selection of the best qualified candidates for appointments. In this quarter, 13 percent of the offers made to top-ranked candidates were declined (more than half of these by candidates from outside the BC Public Service).

In the first quarter, one appointment was found not to be the result of a merit-based recruitment and selection process. In this competition, the educational criteria called for post-secondary graduation supplemented by significant formal education in the related professional discipline. There was no indication in the posting or job description that an equivalency would be considered or that a preference would be applied, nor an indication that lesser qualified applicants would be considered. The panel lowered the qualifications so that an internal candidate was shortlisted, without applying the same standards to other candidates. The organization did not provide satisfactory evidence that all candidates were fairly considered against the same qualifying criteria, and this compromised due process.

The inaccurate description of the qualifying criteria, and an inconsistent shortlisting process that favored an internal candidate, were not indicators of a merit-based process. The public perception of hiring someone without the posted credentials is that the individual appointed is not qualified, or that the individual appointed received preferential treatment. An accurate description of the required qualifications is critical to a transparent and merit-based process, and a well-qualified and professional

public service. It helps potential applicants determine whether or not they would be considered eligible to apply; and provides information on the job to be done, giving confidence that the individual hired through a merit-based process is qualified and able to do the job well.

In two cases audited, the appointments were the result of a merit-based process but were flagged “with exception” due to process errors. In one competition, an administrative marking error resulted in one candidate being placed on the eligibility list ahead of another candidate, and receiving an offer earlier than the other candidate. In this particular instance, the overall impact was minimal as the offers were made one week apart. This case was flagged to emphasize the importance of accurate scoring. Since candidates’ scores determine their placement relative to other candidates in a competition, even a minor error could compromise the integrity of the assessment process and an appointment based on merit.

In one case, the scoring methodologies used to evaluate candidates’ competencies through Behavioural Event Interviewing (BEI), and their past work performance, did not meet the test of a consistent, reasonable or objective process, and demonstrated the panel’s inexperience with these assessment methods. The auditor concluded that, given the circumstances in this competition, the outcome was not impacted, but the process was flagged “with exception” to highlight the need for training of panel members in the use of BEI.

As with the 2007 audit, the auditors continue to note concerns regarding a short listing practice being used by some managers which is not objective. Good practice limits the initial screening of applicants’ qualifications (on the basis of paper resumes) to the stated education and experience requirements – candidates either do meet these criteria or they do not. The underlying assumption is that candidates who are considered qualified on the basis of their education and experience also possess the appropriate body of knowledge, skills, abilities and competencies required for the position. These would need to be demonstrated specifically by the short listed candidates through further assessment (such as written tests and interviews) relative to other candidates.

This flawed short listing practice consists of initially qualifying candidates on the basis of their paper resumes on criteria such as “knowledge of business outcomes” and “strong leadership and team skills”. A paper-screening of applicants against these criteria is not an objective basis for assessment as there is the potential for applicants to misrepresent themselves by embellishing or omitting information. When the auditors encountered this practice, the process was carefully reviewed to check that the candidate was not appointed solely on the basis of a paper assessment of these qualifications and that no candidates were disadvantaged by this practice.

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Documentation

- *01. Human Resource Policy Statement - Hiring and Deployment (2009):* “Hiring managers must document their hiring activities.”
- *Public Service Value (2009): Accountability -* “Taking responsibility for decisions”

The steps and decisions taken by the hiring manager throughout the recruitment and selection process must be shown to uphold the merit principle and the assessment of applicants is to be consistent with the elements of transparency, consistency, relevance, fairness and reasonableness. Poorly documented appointment decisions do not demonstrate the public service value of accountability. Staffing decisions are business commitments and must be documented just as thoroughly as a financial contract would be.

Documenting the process steps and appointment decisions assists managers as they provide feedback to applicants. The documentation is required by organization heads for staffing inquiries, and by the Merit Commissioner for staffing reviews and audits. Sometimes eligibility lists are used by other managers, and a well-documented account of the hiring decision will add confidence that the competition results were merit-based.

An ongoing problem noted by this Office in previous audits has been the poor level of documentation to support appointment decisions. This Office is pleased to see that the first quarter of 2009 showed a marked improvement in the quality of documentation. Auditors noted that only 3 percent of the files initially submitted to this Office were poorly documented (compared to the 2007 annual audit, when more than 50 percent of the files were initially poorly

documented, requiring auditors to follow-up with the organizations for additional evidence, sometimes numerous times). In fact, the state of documentation in 51 percent of the files was noted by the auditors as being “excellent”, requiring minimal, if any, follow-up with managers. As is evident in Table 1, this quarter, there were no appointments where auditors were unable to make a determination of whether the merit principle had been applied. This category has been tracked since 2005 and will be a benefit to accurate reporting if it can be eliminated altogether.

The reasons for better-documented appointment decisions could be two-fold. The first could be attributed to our change in approach to more immediate audits. Previously, the annual audit cycle commenced at the end of the calendar year and included appointments which were made, in some cases, over a year earlier. This meant that the original hiring manager or panel members could no longer recall specific details; electronic records had been erroneously deleted; and information, once available, could not be located. Given the change to an immediate audit, we expect that if the documentation to support an appointment decision is not “at hand” shortly after an appointment has been made, or hiring managers are unable to recall steps and decisions made during a recruitment and selection process, the “documentation” issue may be confirmed to be a lack of accountability to uphold the principle of merit.

The second reason for better documentation may be due to the response of the BC Public Service Agency to a recommendation made to address the poor level of documentation:

Merit Commissioner’s Recommendation (November 2008): “It is recommended that deputy ministers and their equivalents emphasize that hiring managers will be held accountable for adequate documentation as fundamental to a merit-based appointment”.

The BC Public Service Agency responded to the recommendation, indicating that the emphasis on documentation was being built into their learning programs; that a documentation checklist was available on their website and that the use of it would be reinforced by HR staff within both the BC Public Service Agency and the

organizations; and that they would evaluate communication strategies concerning the need for complete and proper documentation.

This first quarter's findings indicate a positive trend toward better documentation which is fundamental to a merit-based appointment.

The first quarter included two audits of appointment processes with less than adequate documentation. Although the auditor was able to obtain enough information to infer a meritorious process, these cases were flagged "with exception."

In one case, the ministry had conducted two competitions at the same time for similar positions. The documentation was intermixed, and a number of documents related to the competition being audited were missing. The auditor made several requests for missing information: where documented evidence was not available, the auditor was able to make some reasonable assumptions and accepted verbal evidence. This case was flagged "with exception" due to the number of documentation problems noted.

In the second case, the manager had requested candidate referrals from the corporate pre-qualified pool for financial officer positions. The manager was able to obtain only one qualified referral candidate. He indicated to the auditor that he had assessed the candidate for "suitability" but did not document this assessment. The appointment was found to be merit-based, but it was flagged "with exception" due to the absence of documented evidence to support the appointment made, and to confirm that the candidate possessed the knowledge, skills, abilities and competencies required to perform the duties of the position. The assessment of one candidate must be documented as diligently as a process where there are multiple applicants being considered.

The auditors noted two other cases with poor documentation. In both cases, the manager received candidate referrals from the corporate pre-qualified pool for administrative positions. The managers' assessment of the referral candidates should have documented evidence how the successful candidate best met the specific job requirements.

Notification

- *Public Service Act, Part 4 – Review of Staffing Decisions:* Includes provisions for unsuccessful employee applicants to request feedback on a staffing decision; if unsatisfied about the merit of the appointment, to request an inquiry by the organization head; and finally, if the position is in the bargaining unit, an independent review by the Merit Commissioner.
- *01. Human Resource Policy Statement - Hiring and Deployment (2009)* and collective agreement provisions: disclosure of specific appointment details.

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Managers are required to notify unsuccessful employee applicants of the outcome of the hiring process. Accounting for the outcome is part of the transparency of conducting public business. When managers don't notify employee applicants of outcomes, they undermine confidence in the merit of the appointment and add to the perception that managers are not accountable for their hiring decisions.

The notification process also serves another purpose. *The Public Service Act* gives all employee applicants the right to challenge the merit of an appointment. The staffing review process includes requesting and receiving feedback from the hiring manager about why they were unsuccessful; an internal inquiry by the organization head; and, for positions in the bargaining unit, an independent review of the appointment decision by the Merit Commissioner. The first step of the process can only be initiated within a prescribed time after employees receive notification that they were unsuccessful. By failing to communicate the results of a competition, unsuccessful employee applicants are obstructed from exercising their right accorded by statute, regulation, and collective agreement.

The quarterly results show, in eight percent of the processes audited, there was an absence of final notification to some or all of the unsuccessful employee applicants. The appointments were found to be merit-based, but the processes were flagged "with exception" for this reason.

This has been a recurring issue identified in previous audits, and in November 2008 the Merit Commissioner made a recommendation for improvement:

*Merit Commissioner's Recommendation (November 2008):
"Deputy ministers and their equivalents must hold managers accountable for communicating the outcome of competitions and offering feedback to employee applicants."*

The BC Public Service Agency responded to this recommendation by stating, "...all unsuccessful applicants should be notified of the outcomes of the hiring process and we are working to implement this practice. We expect to achieve this by ensuring the process is included in the training of supervisors and managers and also by revising our training materials and hiring processes. This work is currently underway."

We accept that it may take some time to implement the strategies suggested. The interim results, however, indicate a deteriorating trend over the 2007 audit results. Each time a manager does not notify employee applicants of the results of a competition, a message is sent to employees – their own employer is failing to help them obtain feedback on their applications and their aspirations. It damages the reputation of the BC Public Service as an employer, and is not consistent with the corporate human resources goal of building internal capacity.

The auditors noted cases where employee applicants were notified of the outcome, but the results were not fully disclosed. For example, employees were told about an initial appointment, but not that an eligibility list had been established; or, they were not provided with details regarding the employee candidate who was appointed. The BCGEU, PEA, and Nurses collective agreements provide for unsuccessful employee applicants to be notified of the name and classification of the successful employee candidate. Full disclosure of competition results is a simple way to help reinforce confidence in the merit of staffing actions and engender trust in the integrity of the hiring system.

This Office has noted that the BC Public Service hiring policy on notifying applicants was amended in 2008 from the proactive requirement that managers *offer* applicants the opportunity

to receive feedback, to the current requirement that managers *provide feedback* to applicants *looking for feedback* – a reactive approach. Our Office is critical of this change in the policy and finds it inconsistent with the stated goal to attract and retain skilled talent.

Past Work Performance

- *Public Service Act, section 8(2)*: One of the matters to be considered in determining merit is past work performance.
- *01. Human Resource Policy Statement - Hiring and Deployment (2009)*: “Past work performance is one of the best predictors of future performance and must be assessed for all qualified applicants.” “Methods of assessing work performance may vary depending on the situation, but will include an employment reference (one of which must be from a supervisor or equivalent).”

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BC Public Service hiring policy requires managers to undertake an assessment of past work performance prior to offering the candidate a position. The policy was enhanced in 2008 to require an employment reference from a supervisor or equivalent. With this policy change, auditors are looking for documented evidence to confirm that references were checked, even if the candidate’s supervisor is on the panel or the candidate is internal to the organization.

The first quarter included one case where the successful candidate was an out-of-service candidate, but there was no file evidence to confirm that an employment reference was obtained. Although the manager indicated to the auditor that this was done, the process was flagged “with exception”. Documenting the reference check would have provided evidence that the manager had considered this factor of merit, as required by statute and policy; that the candidate possessed the qualifications required for the position; and added transparency and credibility to the overall process.

One auditor noted a case where the hiring manager found it difficult to obtain an employment reference. In such a case, the panel must consider which sources would be the most valid and useful for obtaining the facts and examples required to assess past work performance. A critical consideration is that the assessment be impartial and objective, e.g., applicants are assessed against the

same criteria; evidence of past work is being sought, not opinions; more than one reference is obtained to validate the decision; and that the decision to eliminate a candidate is based on job-related knowledge, skills, abilities and competencies.

Although only four of the competitions audited this quarter involved a point-rated assessment of past work performance (as opposed to a “pass” or “fail”), this Office was critical of a practice observed where the panel allowed referees to provide the point-ratings without providing marking guidelines. An objective and consistent assessment would see the reference-taker documenting the discussions and returning the facts to the assessment team for review and rating against pre-determined criteria. In this case, the auditor concluded that no candidate was advantaged or disadvantaged; overall, candidates were assessed as satisfactory or better and their rank order did not change with the points for past work performance factored in.

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Years of Continuous Service

- *Public Service Act, section 8(2)*: One of the matters to be considered in determining merit is an employee applicant’s years of continuous service with the BC Public Service.
- *01. Human Resource Policy Statement - Hiring and Deployment (2009)*: “For bargaining unit positions, years of continuous service in the BC Public Service must also be assessed.”
- *BCGEU 14th Master Agreement*: If the highest-rated qualified applicant does not have the most years of continuous service (in the BC Public Service), a specific formula is applied to determine whether other qualified employee candidates are “relatively equal” to this applicant. The qualified applicant who is “relatively equal” with the most years of continuous service shall be appointed.

The “relatively equal” calculation is the agreed method of assessing candidates’ years of continuous service for positions in the BCGEU. Audit results for the first quarter show that 73 percent of the appointments audited were to positions included in the BCGEU and, in 15 percent of these appointments, there were errors or failures in assessing whether qualified employee candidates were “relatively equal” based on their years of continuous service. Flaws or errors can impact whether a candidate is appointed, or affect their placement order on an eligibility list for future hiring.

In two cases, the audit found that the appointments made were not merit-based. The incorrect application of the “qualified relatively equal” formula erroneously determined the final ranking of candidates, and resulted in the appointment of candidates over others who were not appointed and who remain on the eligibility list. Both these cases were from the same organization; they indicated that the hiring manager relied on erroneous advice provided by their human resources consultant at the BC Public Service Agency.

In five cases, appointments were correctly made and found to be merit-based, but were flagged “with exception”. In each case, the auditor found an omission or erroneous application of the “relatively equal” calculation but confirmed that the appointment results were not impacted – a fortunate coincidence. In three of these competitions, there were no working papers to show that this factor of merit was considered and to confirm that there were no qualified candidates who were “relatively equal” to the top-scoring candidate. The auditors indicated, in these cases, that they could not reasonably assume that a mental calculation was done. In two other competitions, the hiring managers clearly did not understand how this factor was to be assessed: one thought that the years of continuous service was factored in by considering employees’ past work performance; another thought there was no requirement to consider continuous service because an out-of-service applicant was hired.

In the above cases, where the auditors determined that candidates on the eligibility list were in an incorrect order because of the erroneous application of “relatively equal”, our audit reports pointed out that these placement errors could be rectified prior to making future appointments from the eligibility list. This is a benefit of providing organizations with their audit results in a timely manner – so that managers are able to address the inconsistencies reported to them and ensure that their future appointments are merit-based.

The quarterly results continue to demonstrate a problem in the assessment of years of continuous service for BCGEU positions. As this had been a recurring issue identified in previous audits, the Merit Commissioner made a recommendation following the conclusion of the 2007 audit:

*Merit Commissioner's Recommendation (November 2008):
"Deputy ministers must take action to ensure that the employer's commitment through the BCGEU collective agreement – to assess years of continuous service using the "relatively equal" calculation – is fulfilled. The BC Public Service Agency should make tools available, such as an online automatic calculator."*

The BC Public Service Agency responded to this recommendation by developing an electronic calculator and making it available on @Your Service, an employee intranet site. The correct use of such a tool is intended to improve consistency and accuracy in the application of "qualified relatively equal".

Following the first quarter results, this Office has provided suggestions to the BC Public Service Agency about the electronic calculator. We think it can be made more user friendly and be supported with contextual information, such as why, when and how to apply the "relatively equal" calculation.

The audit continues to find managers who are *unaware* of the requirement to assess years of continuous service for BCGEU positions and how this is to be done. It is clear that these managers are not trained or supported adequately in merit-based staffing. If they do not know their obligations to consider this factor of merit, or their obligation on behalf of the employer – through a collective agreement – to do the calculation, having a stand-alone tool available is not sufficient. If appropriate tools and resources are not available to human resources consultants and hiring managers to assist them in the assessment of this factor of merit, there is no reason to believe that the results will improve. Our office will continue to monitor the assessment of this factor of merit.

2008 Special Audit: Temporary appointments of seven months or less – Stage 1

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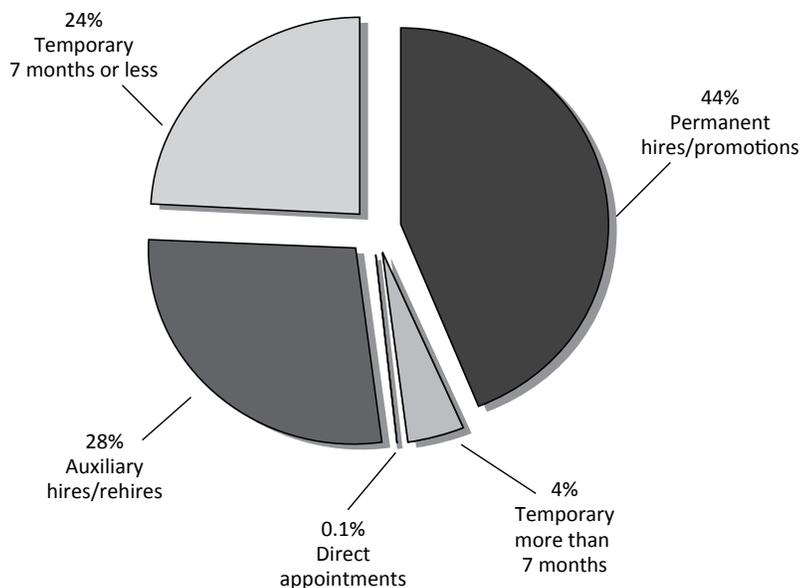
2008 Special Audit:
Temporary
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Overview

The Merit Commissioner's office has been systematically auditing different types of appointments so that there is a baseline of merit-based performance in the public service. Figure 1 below shows the number of appointments made in 2008 within the Office's oversight jurisdiction. The 2008 special audit focused on temporary appointments for seven months or less, to promotional opportunities.

FIGURE 1

Appointments Made in 2008



- 6,454 Permanent hires/promotions
- 641 Temporary more than 7 months
- 19 Direct appointments*
- 4,114 Auxiliary hires/rehires
- 3,607 Temporary 7 months or less

14,835 Total Appointments made^{1, 2}

¹ Raw (unadjusted) population data

² Liquor Distribution Branch, Forensic Psychiatric Services Commission and BC Mental Health Society not included in this audit.

Background

Section 5.1 of the *Public Service Act* requires the Merit Commissioner to monitor the application of merit by conducting random audits of appointments. The audits must assess whether:

- a. the recruitment and selection processes were properly applied to result in appointments based on merit, and
- b. the individuals, when appointed, possessed the required qualifications for the positions to which they were appointed.

All appointments to the public service must be based on the principle of merit. For regular employees, appointed on a permanent basis or temporarily for more than seven months, the decision must also be the result of a process designed to evaluate the knowledge, skills and abilities of applicants. Other types of appointments are exempted from the requirement to have a competitive process by Section 10 of the Act. These include temporary appointments of regular employees for a term of seven months or less.

A temporary appointment for a term of seven months or less is a staffing option that may be used where it is anticipated that this appointment term will be sufficient to provide an employee development opportunity, a short term assignment, or to fill a temporary vacancy. On-going positions may be temporarily vacant for a variety of reasons, such as illness, vacations or while a permanent vacancy is being competed.

Temporary appointments made for this limited term accounted for almost one quarter of all appointments made in 2008. Since managers do not have to use a competitive process to make these appointments, an audit enables us to learn how the appointments are made, why managers opt to use this type of appointment, and whether the appointments are based on individual merit.

Objective

The audit will determine:

- the number and types of temporary appointments that are initially seven months or less;
- the number and reasons for any extensions;
- whether the individual appointed was assessed for merit;
- whether the individual appointed possessed the required qualifications for the position;
- what happens when a temporary appointment concludes –

options may include a return to base position or an opportunity to compete for a permanent appointment to the topic position.

Scope

Ministries and organizations which make appointments under sections 8 of the *Public Service Act* are subject to audit. Population data was obtained from the Corporate Human Resources Information and Payroll System (CHIPS). Three organizations which do not enter their appointment information in CHIPS (Liquor Distribution Branch, Forensic Psychiatric Services Commission and BC Mental Health Society) are not included in the special audit.

In the BC Public Service, temporary appointments of regular employees are commonly referred to as TAs. Those TAs with an initial term of 7 months or less are coded in CHIPS as T<7. For ease of reference, they will also be denoted as T<7 in this report.

This audit is limited to T<7s which were active at any point during the 2008 calendar year and have concluded by June 2, 2009. This includes T<7s that started prior to 2008 and continued or were extended into 2008 or beyond.

The audit consists of two stages. Stage 1 consisted of gathering information, identifying the overall population from the raw data, and narrowing the data for further analysis and verification. This report will only discuss the first stage. In Stage 2, the Office is auditing a random sample of the stratified population, and will provide an analysis including whether individuals appointed were assessed for merit and what happened when the temporary appointments concluded.

Stage 1: Identifying the Audit Population

(a) Promotional T<7s

This audit focuses on T<7s of regular employees to promotional opportunities. A promotional TA is defined by the BC Public Service Agency as a temporary appointment to a position with a higher maximum salary rate than the maximum salary rate of the employee's base position.

In CHIPS, all temporary appointments with an initial duration of 7 months or less are coded as T<7, regardless of whether they are a promotional opportunity, a lateral transfer or a demotion of a temporary nature. As lateral transfers and demotions are exempted from the consideration of merit in the *Public Service Act*, these records were removed, leaving 3,769 promotional T<7s in the audit population (Table 3).

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Table 3: All T<7 (and Extensions) Active in 2008

All T<7 ¹	5108	100%
<i>Minus:</i> Non-promotional T<7 (lateral or demotion)	<1339>	<26%>
Promotional T<7	3769	74%

¹ Note: Appointments identified for this special audit include those that commenced prior to 2008 and continued or extended into 2008 or beyond.

(b) Concluded T<7s by employee group

The population of promotional T<7s includes those which have concluded and those which are still ongoing. This audit is confined to the 3,068 appointments that are known to have concluded by June 2, 2009. Table 4 categorizes this audit population by employee group.

Table 4: All Promotional T<7 in 2008 by Employee Group

Employee Group as a % of Total Workforce ¹	Concluded ²	Ongoing ^{2,3}	Total
Management Excluded (14.14%)	1473	257	1730 (45.9%)
BCGEU (74.07%)	1376	378	1754 (46.5%)
PEA (3.79%)	130	24	154 (4.1%)
OEX (Schedule A) (2.24%)	78	38	116 (3.1%)
Legal (2.10%)	10	4	14 (0.4%)
Nurses (1.93%)	1	-	1 (0.03%)
Total	3068	701	3769 (100%)

¹ Percentage of BC Public Service workforce based on May 30, 2009 payroll data

² Status as of June 2, 2009

³ Includes T<7s concluding after June 2, 2009 plus T<7s with no end date - presumed to be ongoing.

(c) T<7s concluded within 7 months

By restricting the audit to only those promotional T<7s which have concluded, information can be obtained on the total length of each temporary appointment; and the number of extensions made to each T<7. As the actual number of days in any given 7 month period varies slightly, 211 days has been established as an approximation of the 7 month point for purposes of this audit. Table 5 shows that, of the 3,068 appointments made with a term of 7 months or less, 2,433 (79%) concluded within that time frame.

Table 5: T<7 Concluded in 7 Months or Less			
Total length including extensions	Number extended	Number not extended	Total
Up to 1 month	27	838	865
1 to 3 months	156	498	654
3 to 7 months	393	521	914
Total length of 7 months or less	576	1857	2433

(d) T<7s extended beyond 7 months

Of the 3,068 concluded T<7s, Table 6 shows that 635 appointments (21%) continued for more than 7 months. This included: 208 appointments lasting between 1 to 2 years, and 45 appointments lasting between 2 to 6 years. CHIPS data indicated there were 45 appointments which, although they were characterized as a T<7, had an initial term of more than 7 months duration, including some with initial terms of 1½ years or more. Stage 2 of this audit will include an analysis of a random sample of these temporary appointments.

Table 6: T<7 Concluded After More Than 7 Months			
Total length including extensions	Number extended	Number not extended	Total
7 to 12 months	349	33	382
1 to 2 years	196	12	208
2 to 4 years	41	-	41
4 to 6 years	4	-	4
Total length more than 7 months	590	45	635

(e) T<7s selected for audit

Table 7 presents the number of times these 635 promotional appointments were extended. Each extension represents a managerial decision that extending the short-term appointment is the appropriate option. Table 7 includes the 45 appointments identified as T<7 but which had longer initial terms, as well as:

- 369 (58%) were extended 1 to 2 times before concluding;
- 160 (25%) were extended 3 to 4 times; and
- 61 (10%) were extended anywhere from 5 to 12 times before concluding.

Total length including extensions	Number of times extended				Total
	0	1 to 2	3 to 4	5 to 12	
7 to 12 months	33	280	66	3	382
1 to 2 years	12	84	79	33	208
2 to 4 years	-	5	13	23	41
4 to 6 years	-	-	2	2	4
Total length more than 7 months	45	369	160	61	635

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2008 Special Audit:
Temporary appointments of seven months or less – Stage 1

Looking Forward: Stage 2

A random audit sample, will be designed with BC Stats' assistance, from the population identified for audit in Stage 1. Stage 2 audit results and analysis will be reported in the 2009/10 Annual Report. This will include whether the appointed employees were assessed for merit, and whether they possessed the required qualifications for the position. The audit will also examine the reasons for extensions to T<7 appointments, and report on whether there is any correlation between employee TAs and subsequent permanent appointments to the same position.

Staffing Reviews

The Year in Review:
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Overview

Since December 2003, Part 4 of the *Public Service Act* has given employees who are unsuccessful applicants in a competition the right to request a review of a hiring or promotion decision. The request must relate to the grounds that the appointment did not comply with the test of merit: that the individual was qualified for the job, and that the selection process was merit-based.

There is a two-step internal staffing review process, which begins with a request for feedback from the hiring manager on the employee's own performance during the application process. If unsatisfied, the employee can request an inquiry by the deputy minister into the application of the principle of merit. For employees who are applying for an excluded position, the deputy minister's decision is final.

For employees who are applicants to bargaining-unit positions, there is further recourse if still not satisfied: an independent review by the Merit Commissioner. The comprehensive review is based on the grounds submitted and includes discussions with the employee who requests the review and all documentation related to the staffing process. The Merit Commissioner may request additional information, including verbal evidence to support the documentation. Discussions often occur with the manager responsible for the appointment decision, or with others involved in the assessment. These discussions help the Merit Commissioner identify the issues and establish facts. After completing this review, the Merit Commissioner may direct that the appointment or proposed appointment be reconsidered, or find that it was based on merit. The Merit Commissioner's decision is final and binding.

A timely decision is important to the employee who is concerned about the outcome, and to the organization for operational requirements. The Merit Commissioner committed to issuing a written decision on all review requests within 30 days of receipt. The Commissioner met this performance measure in eight of the eleven review decisions issued. Three decisions took longer than 30 days and were delayed by the Merit Commissioner's absence. The Merit Commissioner will take measures to ensure no delays occur during vacation periods.

After a decision has been made, the Merit Commissioner follows-up directly with the employee who requested the review. Within a few weeks, a voluntary survey provides the employee with the opportunity to share his or her views about the services of the Office, and a chance for the Merit Commissioner to confirm that there have been no adverse consequences for the employee who requested the review.

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Staffing Reviews

Decisions

Requests filed in the 2008/09 Fiscal Year

During the 2008/09 fiscal year, the Merit Commissioner received 15 individual requests for review. Eleven decisions were issued by March 31, 2009, involving 10 competitions. Nine ministries were involved in the reviews. In all 11 of the decisions, the Merit Commissioner found that the appointments made were the result of a merit-based process and that the people appointed were qualified for the job.

Four requests were deemed ineligible. In one instance the individual was an external candidate, and in another, the employee had gone straight to the Merit Commissioner, without using the internal review process – a request for feedback and an inquiry by the Deputy Minister, which must be completed first. In a third request, the competition had been cancelled and no appointment had been made. In the fourth case, our Office made a determination that although the employee's application was not considered, the employer had reasonably restricted the competition to employees of a particular work unit.

Table 8: Year-to-Year Comparison of Staffing Reviews

Fiscal Year:	2004/ 05	2005/ 06	2006/ 07	2007/ 08	2008/ 09
Requests for review received	32	12	15	11	15
Requests for review outstanding from previous fiscal year	-	16	4	-	-
Requests for review ineligible or withdrawn	5	1	1	1	4
Total eligible requests for review*	27	27	18	10	11
Decisions issued	11	22	18	10	11
Decisions deferred to next fiscal year	16	4	-	-	-
Appointments complying with merit	7	21	17	10	11
Appointments not complying with merit	2	-	1	-	-
Inconclusive	-	1	-	-	-

* Decisions issued may reflect requests for review from employees on multiple competitions and/or on competitions involving a request for review from more than one employee.

Observations

Employee applicants submit requests for review of hiring or promotion decisions because they believe that the appointments are not merit-based. Review decisions, together with audit findings, give deputy ministers, hiring managers and employees who have requested a review an independent determination of whether the appointment was the result of a fair and reasonable merit-based process.

The review is guided by the requirements of legislation, hiring policy and collective agreement provisions that are related to merit-based hiring. The review acknowledges that managers have been delegated staffing authority: they are responsible and accountable for staffing decisions. Review by the Merit Commissioner is not intended to be a substitute for managers' judgment.

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A merit-based staffing process that is free of bias includes having an assessment that is based only on the factors relevant to the work to be performed, and a process that is fair, consistent and transparent. The review examines the decisions made throughout the process to confirm whether they were reasonable and made in an objective, consistent and impartial manner.

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Staffing Reviews

Observations

Competencies and experience

About half of the reviews included a focus on some aspect of the use and assessment of behavioural-event competency based interviews. Employee applicants appear to be aware of the detailed competency information available on the government employees' intranet site @Your Service. The use of simple video examples of this type of interview provided as part of the candidate tips on the public employment website is a useful innovation.

Five employees questioned whether the assessment process appropriately considered their experience. Experience is a factor of merit which may be evaluated in a number of ways. A primary way of assessing experience is the initial qualification of candidates against the minimum amount and type of experience required for the job. It is indirectly assessed when candidates draw on their experience to provide examples that demonstrate their levels of competency. Experience may also be confirmed through checks of past work performance and recognized through consideration of years of continuous service. These are generally done as the last stage of the assessment process.

In each of these reviews, a staged assessment process was used and candidates who did not meet the target level established for each competency were eliminated from further consideration in the assessment process. As the candidates had not demonstrated the required competencies, our review found it was reasonable that they were not considered further, and that the assessment process has sufficiently assessed their experience.

One request for review was concerned that competency questions were not sent out in advance, and that all examples were asked to be within the last two years. Although the hiring panel could have adopted a more transparent process by providing detailed advance information to the candidates (which may have resulted in better prepared candidates), there is no requirement to do so. The review found that the decision to request recent examples was

reasonable as this would reflect a current level of each competency, and would increase the likelihood that referees would recall the details of the examples provided.

In-person vs. telephone interviews

One of the grounds for a review was based on the employee applicant's belief that candidates have an advantage at an in-person interview as they can better demonstrate their personality and judge the reactions from the panel in order to modify or improve responses to questions.

It is understandable for an applicant to be concerned if they are not provided the same treatment as other candidates during the staffing process, as it brings into question the principle of fairness. Fair treatment, however, does not mean that the staffing process must be exactly the same for each applicant. The review focused on whether the panel's decision to interview some applicants by phone, and others in person, put any applicant at a disadvantage.

The panel decided to use telephone interviews as a cost-saving and carbon-emission saving measure. Local candidates were interviewed in person. The panel had developed a pre-determined question and answer guide for knowledge, skills, abilities, and competencies. The questions were directly related to the requirements of the position and all candidates were asked the same questions. The review found that there was an objective evaluation of candidates consistent with the answer key. There was no evidence that the telephone interviews disadvantaged any applicant as the panel did not assess qualities such as personality.

Work Environment

There were three employees who raised issues that did not touch on the merit of the appointment but their concerns were genuine and reflected the employees' perception of staffing practices in their work environment. These issues included a delay in a ministry's response to a request for an internal review, a response to a request for a review which appeared to be punitive, and an adverse response about an employee's performance which came as a surprise.

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2008/09

Staffing Reviews

Observations

a) Delays in internal review

One employee pointed out that there was a delay of 33 days to receive feedback from the panel chair and another delay of 49 days for the internal inquiry to be completed by the deputy minister's delegate. Altogether almost three months passed by before the employee received a response to the internal inquiry process. The regulation provides a strict 5 day time limit for employees to request feedback, inquiries or reviews. The requirement in the BCGEU collective agreement for the manager to provide feedback is "as soon as practicable". There are no timelines imposed at the Deputy Minister level.

The Merit Commissioner brought this delay to the Deputy Minister's attention in strong support of the employee's feeling of frustration and suspicion. Delays of the type experienced by this employee are not reasonable. This employee's perception was not of an employer who appeared to be working diligently to review any potential errors in the staffing decision.

b) Potential Reprisal

In one case, an employee advised this office that their scheduled assignment to act in a more senior position had been terminated after they informed their manager of their plans to request a staffing review of an appointment. The Merit Commissioner took this matter seriously as employees must be able to freely, and without adverse consequence, exercise their statutory right to request a review. It was immediately raised with the Deputy Minister. By this time, the issue had been made the subject of a grievance, removing it from the Merit Commissioner's scope and leaving resolution of this matter with the Ministry.

c) Past work performance failed

An employee asked for a review when supervisors provided a fail for the past work performance component of the assessment process. The employee was unaware of the supervisors' concerns with aspects of the employee's performance at work.

Past work performance, a factor of merit, is an essential element in assessing applicants, as it is one of the most valid predictors of future performance. In this competition, the panel prepared a past work performance guide and rating scale. The reference check was conducted through a series of questions designed to

gather facts, observations and examples. All the questions were job-related. The panel pre-established the standard that would be a decision point for not hiring a candidate.

Current supervisors provided answers and separate examples for each of the questions asked.

The evidence was then rated against the marking guide through consensus. Using a candidate's current supervisor(s) for a reference check, as was done in this competition, is typically the most valid and useful for obtaining factual evidence, descriptions, and relevant examples. Their knowledge of the applicant is most recent and relevant to the job being staffed and they have had the opportunity to observe the applicant over a reasonable period of time.

Although the supervisors provided positive comments about some aspects of the past work performance, they also provided information concerning the employee's performance that did not meet the standards for the position. The review was satisfied that the process allowed the selection team to rate factual evidence, not opinions, and that the assessment was based on critical, job-related criteria.

The employee indicated that this position was of interest and had identified it in the job-related learning and career development goals in a recent Employee Performance and Development Plan (EPDP). The Merit Commissioner's decision noted that the supervisors should have been more forthright about their opinions on performance, with the employee as it related to those goals, during the EPDP process.

Survey of Employee Awareness

In the Fiscal 2010/12 budget submission to the Select Standing Committee on Finance and Government Operations, the Office noted the continuing gap between the results of the annual work environment survey and the number of requests for review of appointments. The 2009 Work Environment Survey was responded to by 23,574 or 87 percent of all regular and auxiliary employees, which is the largest response rate to this survey since it was initiated in 2006. There are two questions in the survey about staffing practices. The first asks whether the selection of a person for a position in the employee's work unit is based on merit, and the second asks whether the process of selecting a person for a

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Staffing Reviews

position in that work unit is fair. In 2009, just over a quarter (26%) disagreed that the selection was merit-based and just under a quarter (24%) disagreed that the process of selection was fair.

Given the hiring activity of 2008, there were many opportunities for employee applicants to apply for a review by the Merit Commissioner. Yet, only a few people did. Rather than speculate on the reasons for so few requests, the Office will undertake a random survey of employees to determine employee awareness of the statutory right to request a review of an appointment decision.

Outreach

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Outreach

This past year focused on increasing education and awareness of the value of merit-based hiring among public service employees in general and with hiring managers in particular.

The Office invited three Canadian experts in public administration to have a dialogue about their views on merit in the public service. We thank Paul Thomas, the Duff Roblin Professor of Government at the University of Manitoba; Professor Greg Marchildon, Canada Research Chair at the Johnson-Shoyama Graduate School of Public Policy; and Dr. Ken Rasmussen, Director of the Graduate School for Public Policy, University of Regina for taking the time to discuss our work and how we measure our success.

Engaging with Employees at their Workplaces

The Merit Commissioner met with employees of the Ministry of Energy, Mines and Petroleum Resources to talk about how audits and reviews were done, as part of their Lunch and Learn program. Once the 2007 Audit was completed, the Merit Commissioner was invited to meet with the executive of Labour and Citizens' Services to discuss the overall results and lessons learned. The Revenue Branch of the Ministry of Small Business and Revenue asked the Merit Commissioner to participate as a speaker in a morning of activities designed to increase staff engagement through better staffing practices. The Merit Commissioner also presented a webinar about the independent officer's role at a Public Sector Lawyers meeting (which is a subsection of the Canadian Bar Association). This meeting was co-chaired by lawyers from the Ministry of the Attorney General and attended by participants from various ministries that employ legal advisors throughout the province.

Continuing Education with Managers

"Managing in the BC Public Service" is a course given for new managers and to refresh current managers who may be in new positions. It includes a specific section about the role of the Merit Commissioner's Office in their accountability for hiring decisions. The Merit Commissioner participated in the spring and fall sessions of this course, held in Victoria and Vancouver with managers from throughout the province. The evaluations from these sessions were very positive.

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Outreach

Raising the Profile of the Office

In June 2008, the Merit Commissioner was invited to take part in the annual symposium of the executive cadre of the federal public service by being part of a panel that addressed the topic of Public Service Impartiality: Taking Stock. It was instructive for these senior managers to learn that British Columbia established an office that has linked the relationship of non-partisan and merit-based appointments to engagement in the public service.

The Commissioner also attended the 45th Annual Public Service Commissioner's Conference. The unique role of the Merit Commissioner in providing credible and timely reports to deputies to hold the public service accountable for merit-based hiring decisions was of interest to all attendees.

The Merit Commissioner was the guest of the federal Public Sector Integrity Commissioner who hosted a national symposium on building trust in public institutions. To help achieve that success, the symposium brought together agents of Parliament, jurists, scholars, senior officials from federal government organizations, middle managers from across Canada, union representatives, senior officials from six provincial governments, the Integrity Commissioner of Queensland, Australia, and practitioners from the Canadian private sector, to share experience in fostering integrity. This symposium was the first of its kind in Canada.

Strengthening Public Management in the Commonwealth

The Merit Commissioner's Office was very pleased to be invited to speak to the Commonwealth Association of Public Administration and Management (CAPAM). This international association is dedicated to strengthening public management throughout the Commonwealth. CAPAM held a regional conference on Governance Excellence: Managing Human Potential. The conference was attended by more than 200 senior delegates from 16 countries in the Commonwealth ranging from Australia, UK, Canada and India, to Nigeria, Ghana, Malaysia, and Singapore. The Office presented a case study on our role of oversight and insight into merit-based hiring in the BC Public Service. This presentation has been published in a CAPAM Report and is available on our website.

Budget and Resources

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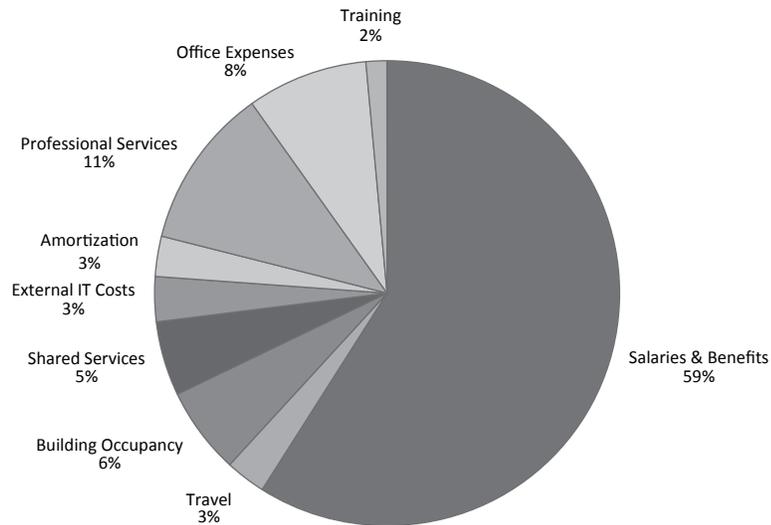
Each December, the Commissioner provides a service plan, performance measures for the past year and a proposed budget to an all-party committee of the Legislative Assembly. The Select Standing Committee on Finance and Government Operations reviews the plan, the achievements to date, and decides on the resources requested for the future operation of the office.

The service plan has been guided by the priorities and performance measures that the Merit Commissioner first set out in the three year plan, 2007/08-2009/10. The Office has systematically increased the annual audit sample sizes so that the results can be confidently extrapolated to the large population of these appointments across the whole public service. The Office has also determined the appointment types to be included in the annual and special audits based on the risk that they pose to the integrity of a merit-based public service. The annual audits have focussed on the appointments that form the regular, long-term work force of the BC Public Service. Each of the past two years have included a special audit; first of direct appointments and currently of temporary appointments for a term of seven months or less. Four of the five types of appointments under the jurisdiction of the Merit Commissioner have now been audited for merit-based hiring.

Figure 2 below, shows the 2008/09 operating budget that was approved by the Select Standing Committee, by expenditure type.

FIGURE 2

2008/09 Fiscal Year Operating Budget by Expenditure Type



The Committee expanded the Office’s budget for 2008/09 based on the increased volume of hiring in the public service over 2007. This enabled the office to have the full time support of one administrative person who manages the accounts, reception and logistics associated with audits, reviews and reports. There are four staff positions in total. Two staff are dedicated to the annual and special audits, one of whom oversees the contracted auditors and fulfills quality assurance. A third position managed the staffing review process and inquiries about hiring decisions. This position concluded in October 2008 and has not subsequently been filled as we correctly forecast that as the economy slowed, so too would public service hiring. The 2008/09 expenditures were \$726,628. The budget was under spent by \$166,000 – over half of which was salary and benefits slippage. Other savings were achieved in central management supply services, in office expenses, and in amortization expense.

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Appendix A

Organizations subject to oversight by the Office of the Merit Commissioner include:

MINISTRIES

Aboriginal Relations and Reconciliation
Advanced Education and Labour Market Development
Agriculture and Lands
Attorney General
Children and Family Development
Citizens' Services
Community and Rural Development
Education
Energy, Mines and Petroleum Resources
Environment
Finance
Forests and Range
Health Services
Healthy Living and Sport
Housing and Social Development
Labour
Office of the Premier and Cabinet Office
Public Safety and Solicitor General
Small Business, Technology and Economic Development
Tourism, Culture and the Arts
Transportation and Infrastructure

INDEPENDENT OFFICES

Auditor General
Elections British Columbia
Information and Privacy Commissioner
Merit Commissioner
Ombudsman
Police Complaint Commissioner
Representative for Children and Youth

AGENCIES, BOARDS and COMMISSIONS

BC Mental Health Society
BC Pension Corporation
BC Public Service Agency
Environmental Appeal Board

Financial Institutions Commission
Forensic Psychiatric Services Commission
Forest Appeals Commission
Forest Practices Board
Islands Trust
Oak Bay Lodge Continuing Care Society
Property Assessment Appeal Board
Provincial Capital Commission
Public Sector Employers' Council
Royal BC Museum
Tillicum and Veterans' Care Society

