



CANADA BORDER SERVICES AGENCY LSU

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Internal Audit Branch

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STATEMENT OF ASSURANCE

We have completed the internal audit of the Canada Border Services Agency (CBSA) Legal Services Unit (LSU). The overall objective of this audit was provide assurance that the management framework within which the LSU delivers its services to the Canada Border Services Agency CBSA is effective.

The internal audit was conducted in accordance with the Treasury Board of Canada Secretariat (TBS) *Policy on Internal Audit* and the Institute of Internal Auditors' *Standards for the Professional Practice of Internal Auditing*.¹

The audit team assessed the management control framework against criteria derived from the TBS Management Accountability Framework (MAF), the *Guidance on Control* issued by the Criteria of Control Board (CoCo) of the Canadian Institute of Chartered Accountants, and TBS audit guidelines.

In our professional judgment, sufficient and appropriate audit procedures have been conducted and evidence gathered to support the accuracy of the conclusions reached and contained in this report. The conclusions were based on a comparison of the situations, as they existed at the time of the audit, against the audit criteria. It should be noted that the conclusions are only applicable for the areas examined.

¹ The Internal Audit Branch has not undergone an external assessment at least once in the past five years or been subject to ongoing monitoring or to periodic internal assessments of its internal audit activity that would confirm compliance with these standards.

EXECUTIVE SUMMARY

OVERALL OPINION

Overall, we found that the LSU's management control framework is adequate and supports the delivery of legal services to the client department. Open communication at all levels and the implementation of an MOU, which is revised every two years, ensure that client needs are addressed in a timely fashion and that the LSU responds to these needs according to set performance standards. Opportunities exist to improve governance by finalizing and fully integrating the business plan and by formally documenting all management decisions. Furthermore, management should formally report progress against the business plan, update and/or finalize draft documents, ensure that work objectives for team leaders fully reflect their responsibilities, and implement the approved remedial plan designed to address the LSU's records facility issues.

BACKGROUND

The Department has established dedicated legal services units (LSUs) for most government departments and agencies. These units provide a range of legal advisory and other services to the client organizations to facilitate their operations.

This audit focused on the management practices of the LSU serving the Canada Border Services Agency (CBSA) with an overall objective of examining the framework within which the LSU delivers its services to CBSA and recommending improvements if necessary. The scope of the audit included the operations and activities of the CBSA LSU, which is located in the National Capital Region. The planning and on-site examination phases of the audit were carried out between October 2010 and January 2011.

MANAGEMENT FRAMEWORK

Governance and Strategic Direction

Management is providing governance and strategic direction to staff through the CBSA LSU business plan, allowing for internal coherence, corporate discipline, and alignment to planned objectives. Progress against the plan is monitored regularly and discussed at various meetings with staff.

Formal minutes are taken at staff meetings where critical management issues are discussed and the resulting decisions are communicated effectively to staff. Management does not formally document the results of discussions held on non-critical matters. In our view, all decisions affecting the management of the LSU should be formally documented in order to preserve corporate memory.

Planning

The LSU has developed a business plan that focuses on overall strategic direction, objectives, risk mitigation strategies, priorities, and HR staffing. The plan has been communicated informally to staff. Still in a draft format, it lacks a budgetary component and has not been updated to reflect the positive actions taken by the LSU to address the staffing issues raised in the original staffing plan. Management should finalize and fully integrate the business plan.

During the year, the LSU contributes to the CBSA planning process through open communications and membership on different committees. Involvement in the process allows the LSU to understand and respond to the needs of the client and manage its own resources accordingly.

Organizing

Since its inception in early 2004, the CBSA LSU has been required to respond quickly to a changing organizational environment in order to meet its client's needs. In that respect, the LSU developed a reorganization plan in March 2010 to match a new operational arrangement adopted by the CBSA. Key activities, responsibilities, skills, level of effort, and working conditions were defined and communicated to staff.

Controlling

LSU management monitors performance as part of an ongoing process to assess the organization's progress against objectives. The process includes an informal communications system to share information with staff about the LSU's overall objectives and priorities and the progress realized toward their achievement. However, progress against the business plan is not formally documented and cannot be readily assessed against the business plan. In order to facilitate the monitoring of progress against plans, management should develop and implement a formal reporting process.

LSU management has developed a formal MOU with the CBSA that addresses the roles and responsibilities of both the LSU and the CBSA, and articulates performance expectations including service standards and client service delivery expectations. The MOU is updated every two years to reflect new client expectations and collect information on the client's level of satisfaction with the LSU's performance.

Team leaders are responsible for reviewing client requests and allocating work to staff based on their expertise and availability. Workload is revisited at staff meetings to ascertain that client priorities are met and that work is proceeding in accordance with plans and priorities. In our opinion, workload is assigned, monitored, and tracked.

Leading and Communicating

Management has substantive and timely communications with oversight bodies. These communications provide the basis for an effective leadership and support actions taken by staff in their day-to-day activities.

The LSU has developed the CBSA Legal Services Manual, which is a complete operations manual. Although the manual is in draft form, staff currently use it for procedural and other guidance. The manual should be finalized and distributed to staff.

MANAGEMENT OF HUMAN, FINANCIAL, AND MATERIAL RESOURCES

Human Resources

The CBSA LSU has the appropriate number and mix of resources to meet current client requirements for legal services. Management exercises control over staffing issues and provides staff with professional development opportunities to meet the needs identified in their

performance appraisals. LSU staff use flexible work arrangements, which are governed by set procedures, and these have had no adverse effect on the delivery of client services.

LSU management conducts annual performance appraisals for all legal and support staff. In reviewing the work objectives identified for team leaders, we found that their objectives should incorporate the team leaders' assigned responsibilities for their corporate priority as identified in the business plan.

Material Resources

The LSU exercises good control over its assets. These are recorded in a permanent inventory system maintained by the CBSA. Access to the LSU's premises is governed by set procedures and confidential information is secured in a separate room controlled by a registry clerk.

The increase in the volume of activity has triggered a need for additional storage space and the current shortage has created both a health and safety hazard as well as a security risk. Management has developed a remedial plan to alleviate these risks. This plan has been approved but should be implemented.

Financial Resources

The CBSA LSU prepares monthly financial reports to respond to the requirements of the PSDI Portfolio: budget variances are analyzed and explained, and any outstanding issues are investigated and resolved for the next reporting period. The LSU exercises good control over its financial resources.

INFORMATION SYSTEMS AND MANAGEMENT

Information Systems

The CBSA has access to a variety of information systems that support decision making, setting of objectives, and utilization of resources. Information generated from the systems used is adequate, reliable, and complete.

Information Management

The Department of Justice issues departmental guidelines to ensure the efficient management of files and records. At the LSU level, the CBSA Legal Services Manual outlines the process supporting the management of electronic data.

LSU management has identified as a priority the need to develop formal criteria to support the closure of files. The task has been assigned to the Knowledge and Information Management Working Group and completion is expected within the 2011-12 fiscal year.

COMPLIANCE WITH THE *OFFICIAL LANGUAGES ACT*

LSU management has implemented procedures to ensure that the LSU is in compliance with the requirements of the *Official Languages Act*. The LSU conducts meetings and issues communications in both official languages. Staff receive language training when needed, and the LSU provides services in the client's language of choice. The LSU has identified the official languages requirements for each position but should update the HR staffing plan to reflect this.

RISK AND LEGAL FILE MANAGEMENT AND FORECASTING DEMAND FOR LEGAL SERVICES

Risk and Legal File Management

The CBSA LSU has developed effective risk management practices to support the successful completion of legal case work. Procedures are in place for receiving requests and instructions from clients and for identifying the risks associated with files. Staff confirmed that the procedures are adequate and support them well in their activities.

Forecasting Demand for Legal Services

LSU management participates in the CBSA annual planning process through membership on various committees and uses the information gathered on CBSA activities to identify client requirements for legal services on an ongoing basis. This process allows the LSU to forecast the type of resources needed for the coming year to meet client requests for services in a timely manner.

INTERFACES WITH OTHER ORGANIZATIONS

Department of Justice

The CBSA LSU receives direction, advice, and support from the PSDI Portfolio regarding financial and human resources, and administrative matters. It also participates in weekly teleconferences with the Portfolio and the regions to share information on law-related matters and Portfolio issues. Communication linkages with HQ and regional offices are clearly defined in the CBSA Legal Services Manual, which is accessible to all LSU staff.

Client Department

The LSU has established procedures and processes to support open communications with the client through membership on various CBSA committees. In addition, LSU management has developed a formal MOU with the CBSA that addresses the roles and responsibilities of both the LSU and the CBSA, and articulates performance expectations including service standards and client service delivery expectations.

CLIENT SATISFACTION

In its MOU with the CBSA, which is updated every two years, management has developed feedback mechanisms to determine the client department's level of satisfaction with LSU services. Client satisfaction is also assessed every three years by the Department of Justice through a formal survey conducted by the Office of Strategic Planning and Performance Management (SPPM). Survey results and audit interviews indicate that the CBSA is satisfied with the services provided by the LSU.

The management responses to the recommendations contained in this report were provided by the Senior General Counsel, Canada Border Services Agency.

1. INTRODUCTION

1.1 Background

The Department of Justice has headquarters in Ottawa and comprises approximately 5,000 employees. The Department has established dedicated legal services units (LSUs) for most government departments and agencies. These units provide a range of legal advisory and other services to the client organizations to facilitate their operations. This audit focuses on the management practices of the LSU serving the Canada Border Services Agency (CBSA).

The CBSA was created in December 2003 with the mandate of providing integrated border services that support national security and public safety priorities, and facilitate the free flow of persons and goods into Canada. The Senior General Counsel heads the LSU and reports to the Assistant Deputy Attorney General (ADAG) of the Public Safety, Defence and Immigration (PSDI) Portfolio. The LSU consists of approximately 31 lawyers and 14 support staff who are CBSA employees. Planned O&M and salary expenditures for 2010-11 amounted to the following: O&M CBSA – \$143,608; O&M Justice Canada – \$180,585; Salary CBSA – \$870,191; Salary Justice Canada – \$3,424,875. Additional contextual information is provided in Appendix A.

The key risk factors that were considered in relation to this audit entity include: impact of legal work on the client department; ability to respond to client demand for legal services; effectiveness of linkages with Department of Justice organizations and client departments; the level of efficiencies in the organization and in workload management; adequacy of information for decision making; accurate reporting of performance information; provision of consistent legal advice and litigation services; and management of electronic information.

1.2 Audit Objectives and Scope

The overall objective of the audit was to provide assurance that the management framework within which the LSU delivers its services to CBSA is effective.

The scope of the audit included the operations and activities of the CBSA LSU and focused on:

- the management control framework in place to support governance and strategic directions and the procedures, practices, and policies related to business planning, organizing, controlling, leading, and communicating within the LSU;
- the management of human, financial, and materiel resources;
- the reliability of information systems for decision making and accountability, the level of support received from IMB, user training, and security of electronic information;
- the LSU's compliance with the *Official Languages Act*;
- risk and legal file management and forecasting demand for legal services;
- interfaces with other Justice sectors and the client department;
- client satisfaction.

The planning and the on-site examination phases of the audit were carried out between October 2010 and January 2011.

2. OBSERVATIONS – MANAGEMENT FRAMEWORK

2.1 Governance and Strategic Direction

Governance and strategic direction are essential components of an effective business operation, allowing for internal coherence, corporate discipline, and alignment to planned objectives. These components also provide managers with the ability to effectively allocate human and financial resources to address priorities in an ever-changing environment.

Governance and strategic direction are clear and reflected in the CBSA LSU business plan.

Management has developed a business plan that reflects the LSU's overall strategic direction; identifies priorities, risk, and risk mitigation strategies; and includes a human resources (HR) staffing plan. The business plan, the first one developed by the LSU, was included in the overall strategic plan of the PSDI Portfolio. The plan identifies the following priorities for fiscal year 2010-11:

- stabilization of human resources;
- improvement of the LSU's tracking of resource expenditures to ascertain that they support CBSA's priorities;
- development of a revised Memorandum of Understanding (MOU) between the LSU and the CBSA to replace the one expiring at the end of fiscal year 2010-11;
- completion of LSU working groups' activities planned for fiscal year 2010-11, including closing inactive files, improving training of new staff, finalizing the office procedures manual, and ensuring improved timekeeping processes and use of iCase.

The Senior General Counsel and team leaders regularly monitor the business plan and the HR staffing plan for progress. The plans are discussed on a timely basis at LSU meetings (i.e. team, one-on-one, and all-staff).

In our opinion, management provides the required governance and strategic direction for LSU staffing, resourcing, and corporate programs.

All management decisions affecting the CBSA LSU need to be formally documented to safeguard corporate memory.

The Senior General Counsel advised the audit team that minutes are taken at meetings where critical LSU management matters (e.g. LSU management framework, flexible work arrangements, reorganization issues) are discussed. We reviewed these minutes and found them to be appropriate. Staff are apprised by email of formal decisions reached at these meetings.

At all other meetings with team leaders and staff, formal minutes are not taken. However, at these meetings, the Senior General Counsel takes informal notes on the topics discussed, decisions taken, action required, and responsibilities assigned for follow-up at subsequent meetings. These handwritten notes are kept by the Senior General Counsel for personal reference purposes only and are not circulated to staff.

In our opinion, all decisions affecting the management of the LSU should be formally documented in order to preserve corporate memory.

Recommendation and Management Response

1. It is recommended that the Senior General Counsel ensure that minutes are taken to document all decisions affecting the management of the LSU to safeguard corporate memory. (Low Risk)²

Agreed. The Senior General Counsel will ensure that all decisions affecting the management of the LSU are documented for the purposes of ensuring corporate memory. The types of decisions that will be recorded will include all high-level management decisions that will have a long-term impact for the management of the LSU. These decisions will be documented in a concise set of minutes to be kept at any management team, all-staff, and lawyers' meetings when such decisions are taken. All LSU staff will be advised of this new procedure and will be able to access the minutes electronically. The LSU's Office Procedures Manual will be updated to reflect this approach. This procedure will be implemented immediately.

² The Risk Assessment Guidelines for Recommendations are found in Appendix C.

2.2 Planning

Effective business planning activities and documentation are essential for directing an organization toward the achievement of management's strategic goals, priorities, and objectives. Formal plans need to incorporate objectives for all key areas of the organization.

The business plan needs to be finalized and fully integrated.

The LSU has developed a business plan that focuses on overall strategic direction, objectives, risk mitigation strategies, priorities, and HR staffing. We found that the business plan, which was still in draft form during the audit fieldwork, does not include budget information. Furthermore, the HR staffing plan, originally developed in August 2009, has not been updated to reflect all staffing actions either completed or under way since then.

Senior management confirmed with the audit team its intention of completing an integrated business plan by the end of the 2010-11 fiscal year, which will also include financial information and an updated HR staffing plan. In our opinion, management should take the appropriate steps to finalize the business plan.

Recommendation and Management Response

2. It is recommended that the Senior General Counsel ensure that the business plan is finalized and fully integrated. (Low Risk)

Agreed. The Senior General Counsel will ensure that the business plan is finalized and fully integrated to include the necessary budgetary information and the Human Resources Plan by November 15, 2011.

The business plan has been communicated to staff.

Senior management has shared the contents of the draft business plan with LSU staff. Regular and open discussions surrounding objectives, priorities, risks, and risk mitigation strategies are

held at staff meetings and one-on-one meetings with team leaders to support and informally monitor progress against objectives.

We were told that it is management's intention to request comments from staff on the draft version of the plan before it is issued in its final format. Once these comments have been reviewed (and incorporated into the report, if appropriate), the final business plan will be distributed to LSU staff and provided to the ADAG, PSDI Portfolio.

In our opinion, the business plan has been effectively, if informally, communicated to staff.

The LSU contributes to the CBSA planning process through open communications and membership on different committees.

During the year, LSU management participates in the CBSA planning process through membership on various CBSA committees, such as the Executive Committee, the Program Standing Committee, and the Human Resources Standing Committee. LSU management shares information with CBSA management at these meetings to sustain the planning process at the client level. For example, the Senior General Counsel negotiates the yearly budget for the LSU support staff salaries, the O&M expenditures, and the cost recovery budget for all legal services provided by the Department of Justice to the CBSA including LSU lawyer salaries, based on a combination of the previous year's figures and the forecasts provided by HQ and the regions. Furthermore, the LSU regularly monitors actual expenditures against budgeted amounts to assess outcomes and improve future forecasting of operational expenses assumed by CBSA.

The LSU uses iCase, a web-based integrated case management and reporting application, to manage legal files and track time lawyers spend on files. We were told that the LSU is working on improving the reporting capacity of iCase to be able to provide the client with a breakdown of time spent on files by activity and by client. An internal LSU working group has been assigned this task and its successful completion will result in additional planning information being available to the client.

Collaboration between the LSU and the CBSA is a normal part of the planning process. Both parties work together to develop additional tools that may contribute to an improved planning process. For example, starting in early 2011, a Risk Management Framework, specific to the CBSA LSU, will be developed with the assistance of the CBSA Risk Management Group.

In our opinion, the LSU contributes successfully to the CBSA planning process.

2.3 Organizing

An effective organizational structure encompasses clear definitions of roles and responsibilities that are vital to the successful management of an organization.

The role and responsibilities of CBSA LSU staff are well defined.

Since its inception in early 2004, the CBSA LSU has been required to respond quickly to a changing organizational environment in order to meet its client's needs. In that respect, the LSU developed a reorganization plan in March 2010 to match a new operational arrangement adopted by the CBSA. The proposed plan was developed with input from staff and discussed at team leader, team, and general staff meetings prior to its enactment in March 2010. The audit team reviewed the reorganization plan. We found that key activities, responsibilities, skills, level of effort, and working conditions were defined and communicated to staff.

We further reviewed the organization chart from the perspective of span of control and found it to be appropriate: three team leaders report to the Senior General Counsel and each Team Leader is responsible for approximately 10 counsel. The Office Manager, who reports to the Senior General Counsel, manages 12 support staff, including six legal assistants and six administrative staff.

In our opinion, roles and responsibilities are well defined in the CBSA LSU.

2.4 Controlling

2.4.1 Performance monitoring

Monitoring is the ongoing, systematic process of collecting, analyzing, communicating, and using performance information. It is an essential step for assessing an organization's progress toward meeting expected results and provides support for decision making, accountability, and transparency.

The CBSA LSU needs to formally report on progress made against the business plan and the HR staffing plan to facilitate the monitoring of objectives and resulting follow-up actions.

Management supports an informal communications system to ensure that staff are aware of the LSU's overall objectives and priorities and the progress realized toward their achievement. For example, team leaders responsible for business plan priorities discuss progress with the Senior General Counsel at one-on-one and team leader meetings. Minutes are not taken for these meetings, nor are formal monthly or quarterly reports prepared to document the progress. Furthermore, while actions have been completed on the HR staffing plan, drawn up in August 2009, none of these actions has been updated in the plan. As a result, the status of progress reached at any specific time cannot be readily assessed against the business plan.

In order to facilitate the monitoring of progress against plans, management should develop and implement a formal reporting process.

Recommendation and Management Response

3. It is recommended that the Senior General Counsel ensure that formal reporting of progress against the business plan is conducted to facilitate the monitoring of objectives and resulting follow-up actions. (Low Risk)

Agreed. The LSU will adopt a process whereby reporting of progress against the business plan will occur twice a year. The format of the business plan includes a section that reports on the activities of the previous fiscal year, describing those activities as well as the challenges faced and progress achieved over the course of that period. This reporting against the previous year of work will occur at the beginning of each fiscal year as part of the preparation of that year's business plan. In addition, a review will be undertaken in September/October every year, which will report on the first six months of activity of each fiscal year (April-September) against the business plan. This resulting semi-annual report will be discussed at the management team meeting, finalized, and attached to the yearly business plan. The business plan and the semi-annual report will be circulated to all LSU staff, as well as within DOJ and the client agency as appropriate.

As the auditors have noted, the LSU is currently behind in its business planning cycle. The 2010-11 integrated business plan will be finalized by November 15, 2011. The 2011-12 integrated business plan will be completed by January 31, 2012. This plan will contain a section that reports against the activities of the 2010-11 fiscal year. The 2012-13 integrated business plan will be in place by June 29, 2012 and will contain a section that reports against the activities of the 2011-12 fiscal year. The first semi-annual report will be completed by October 31, 2012. Following this, the LSU will maintain its annual business planning cycle and will report against its business plan twice a year, at the

beginning of the new fiscal year and in September/October of each year as described above.

LSU management monitors LSU performance through formal processes.

LSU management has developed a formal MOU with the CBSA that addresses the roles and responsibilities of both the LSU and the CBSA, and articulates performance expectations including service standards and client service delivery expectations. The MOU is valid for a period of two years. At the time of the MOU's renewal, the Senior General Counsel addresses past performance and obtains formal feedback from CBSA management as to required changes to better meet the client's needs and expectations. The changes discussed and negotiated then become part of the newly signed MOU. At the time of the audit, the Senior General Counsel was discussing with CBSA management the revisions to the next MOU, which is scheduled to be implemented in 2011.

The Senior General Counsel also obtains feedback on the LSU's performance through quarterly meetings with CBSA management. The information obtained during the meetings is communicated to team leaders and staff at their respective meetings for timely follow-up action.

Finally, the LSU is part of a formal client survey process that is conducted every three years by the Office of Strategic Planning and Performance Management (SPPM) in the Department of Justice. The results of the latest survey are discussed in the Observations – Client Satisfaction section.

In our opinion, management has implemented adequate processes to assess the LSU's performance with respect to client needs and expectations.

2.4.2 Workload Assignment and Monitoring

Efficient control and administration over the workload assignment process is a fundamental aspect of a manager's ability to use human resources prudently. In a legal environment, the file assignment process must consider both the experience level and skill sets of resources.

LSU workload is assigned, monitored, and tracked.

Team leaders are responsible for reviewing client requests and allocating work to staff. The CBSA Legal Services Manual sets out the process for addressing client requests for legal opinions and provides procedures for allocating files to team leaders. Team leaders allocate new files to lawyers based on expertise, existing workload information generated from RIMS and iCase, and discussions held at team and one-on-one meetings with lawyers. During these meetings, lawyers' workloads are revisited to ascertain that client priorities are being met and that work is proceeding in accordance with plans and priorities. The Senior General Counsel reviews workload with team leaders at their one-on-one meetings and at the Team Leader meetings.

In our opinion, workload is appropriately assigned, monitored, and tracked in the CBSA LSU.

2.4.3 Timekeeping

Accurate and complete timekeeping information supports effective planning, funding, and management of departmental activities. In the Department, all legal practitioners (counsel and paralegals) and computer specialists (CSs) are required to record their time in iCase in accordance with the National Timekeeping Protocol (NTP). Section 3.1 of the NTP states: "to help ensure data integrity, time should be recorded on a daily basis or as soon as practically possible thereafter".

The CBSA LSU is addressing inconsistencies identified with respect to timekeeping.

The CBSA Legal Services Manual includes standard operating procedures for counsel, legal assistants, paralegals, and administrative staff. It provides guidelines and procedures for conducting daily activities and implementing departmental policies. The manual also provides instructional material, tools for new staff, and a vehicle to record internal lessons learned. In addition, the manual sets out detailed guidance for staff on the procedures for recording their time in iCase.

The Senior General Counsel acknowledged that the LSU had issues with timekeeping in the past, and as a result, timekeeping was made a priority in the 2010-11 business plan. She indicated that the LSU's major issue with respect to timekeeping had related to inconsistencies in the choice of categories counsel use to input their time for the same type of work. For example, training and committee work had been grouped under the label "administration" as opposed to being reported under the specific categories of "training" or "committee work". A working group was assigned

responsibility for addressing the issue and identified a list of categories to be used for the different types of work. The list has been distributed to counsel for their review and comments. Once the comments are received, they will be analyzed and incorporated into the CBSA Legal Services Manual. We were told that this work is expected to be completed during the 2011-12 fiscal year.

In our opinion, the CBSA LSU is addressing the inconsistencies identified in the LSU with respect to timekeeping.

2.5 Leading and Communicating

Effective communications are essential in any workplace. They provide the basis for effective leadership within an organization, as the timely sharing of current and correct information will support actions taken by staff in their day-to-day activities.

The CBSA LSU has substantive and timely communications with departmental oversight bodies that support the overall decision-making process.

As the LSU head, the Senior General Counsel is required to interface regularly with representatives from the Department of Justice to address departmental issues and priorities and report on the LSU's financial results. The Senior General Counsel sits on the Justice Portfolio Heads Committee and participates in the Assistant Deputy Attorney General (ADAG) quarterly Management Committee meetings.

From an operational point of view, the Portfolio Office of Business Management provides support to the LSU for strategic direction, budget preparation, and monthly expenditure reporting. Furthermore, weekly meetings via teleconference are held with the Portfolio and the regions to discuss law-related and other Portfolio issues. As these meetings are held for information purposes only, minutes are not taken.

In our opinion, there are substantive and timely communications between the LSU and departmental oversight bodies that support the overall decision-making process.

The draft CBSA Legal Services Manual needs to be finalized and distributed.

The LSU has developed the CBSA Legal Services Manual, which is a complete operations manual that addresses such topics as the provision of legal services, records management, administrative procedures, financial procedures, human resources, and security. Although the manual is in draft form, it is currently being used by staff for procedural and other guidance. The manual should be finalized and distributed to staff.

Recommendation and Management Response

4. It is recommended that the Senior General Counsel ensure that the CBSA Legal Services Manual is finalized and distributed to staff. (Low Risk)

Agreed. The LSU's Office Procedures Manual will be finalized by March 31, 2012 and distributed to all staff. While there is a solid draft of the manual already prepared which is currently being used by staff, it is expected that there will be significant new procedures and direction developed over the course of the next six to eight months that will need to be documented in the manual.

3. OBSERVATIONS – MANAGEMENT OF HUMAN, FINANCIAL, AND MATERIAL RESOURCES

3.1 Human Resources

3.1.1. Number and Mix of Resources

The appropriate number and mix of resources deployed to work activities is critical to effective utilization of resources.

The CBSA LSU has the appropriate number and mix of resources to meet the client's requirements for legal services.

In the Department of Justice, the number and mix of lawyers is determined by the Law Practice Model (LPM), which was adopted after a departmental strategic review in February 2009 and is expected to be fully implemented by April 2012. The LPM requires the following classification mix of lawyers: 26% at the LA1 level, 47% at the LA2A level, and 27% at the senior level (LA2B and above). At the time of the audit, the CBSA LSU's mix of lawyers was 30% to 35% at the LA1 level, 40% to 45% at the LA2A level, and 16% at the senior level.

Our review of the organizational chart indicated that the LSU has 31 lawyers and 12 support staff. The current HR staffing plan calls for 37 lawyers and 17 support staff. The LSU has established three legal teams, with two teams of 10 lawyers and one team of 11 lawyers. Two legal assistants support each team. Administrative staff (two planning analysis officers and two records clerks) support the three teams. Counsel confirmed through interviews that they are appropriately supported by the administrative staff. Therefore, we conclude that the ratio of support staff to legal staff is appropriate.

The organizational chart showed a vacancy for the position of General Counsel (LA-3A), which would normally provide expertise in high profile cases. The Senior General Counsel was also

considering the possibility of creating and staffing a Deputy Director position rather than the General Counsel position, if permissible under the Law Practice Model. At the time of the audit, the Senior General Counsel indicated that she had not decided how to staff this senior position to best meet client requirements, but that the ADAG's approval would be sought once a decision was made.

At the time of the audit, three LSU administrative positions had experienced sudden turnover that necessitated quick staffing actions to address the void created. While the LSU experienced a backlog of administrative work because of the staff turnover, we found that the remaining staff were working to eliminate the backlog.

We found that LSU management is exercising clear control over its staffing issues and has completed the actions set out in the HR staffing plan. We therefore conclude that the LSU is addressing HR issues in a timely manner and has an appropriate number and mix of staff to properly service client needs.

3.1.2 Professional Development

Professional development must appropriately address the needs of the organization while contributing to the development of each employee's skill set.

Professional development opportunities meet the needs of the LSU and of legal staff.

We reviewed the job descriptions for LSU lawyers and found them to include work objectives that outline professional development requirements for each classification level. The CBSA Legal Services Manual outlines the procedures for obtaining training and attending conferences. We reviewed a sample of training requests submitted by legal staff and found them to meet the needs of staff and the organization. Each was approved according to the appropriate level of delegated authority.

In our opinion, management is aware of legal staff's professional development requirements and has approved requests based on these needs.

3.1.3 Performance Appraisal Process

Performance appraisals for all LSU staff should be prepared annually. Appraisals are important tools for setting objectives, providing feedback on performance, and identifying training requirements.

Team leaders' work objectives need to include their assigned responsibilities for their corporate priority in order to facilitate the performance appraisal process.

The CBSA LSU conducts annual performance appraisals for all legal and support staff. In reviewing these appraisals, the audit team found that the work objectives for team leaders did not include all necessary information on their assigned responsibilities.

The LSU's business plan sets out the LSU's annual objectives and priorities. In order to ensure that these are met, senior management created six working groups and assigned each with specific tasks for meeting the objectives and priorities set forth in the plan. Each group reports on their group's progress to the Senior General Counsel and at the all-staff meeting. Each team leader is part of one of the working groups. In addition, each of the team leaders was assigned a specific corporate priority. We reviewed the priorities identified for these team leaders and found that their work objectives do not incorporate the team leaders' assigned responsibilities for their corporate priority as identified in the business plan.

In our opinion, team leaders' work objectives should include their assigned responsibilities for their corporate priority, as this information will facilitate the performance appraisal process.

Recommendation and Management Response

5. It is recommended that the Senior General Counsel ensure that the work objectives for team leaders refer to assigned responsibilities for their corporate priority in order to facilitate the performance appraisal process. (Low Risk)

Agreed. As a result of the redesign of the LA classification standard, the team leaders in the LSU are now included in the Law Management (LC) Occupational Group and are required to prepare performance agreements as set out in Appendix B of the Treasury Board's *Directive on the Performance Management Program for Executives*. The Senior General Counsel will ensure that the team leaders' performance agreements include Key Commitments relating to those that the Senior General Counsel has identified in her

performance agreement and that reflect the LSU's corporate management priorities as outlined in its business plan. As a result, each team leader will have objectives that refer to their priority activities as assigned by the Senior General Counsel. This recommendation is currently being implemented: the PSDI Portfolio is in the process of preparing performance agreements for its executives for fiscal 2011-12 and this recommendation will be implemented as those agreements are finalized.

3.1.4 Flexible Work Arrangements

The Department of Justice recognizes the need to support employees in balancing their work and personal lives, while maintaining its ability to operate effectively.

Flexible work arrangements are governed by set procedures with no adverse effect on the delivery of client services.

The CBSA Legal Services Manual outlines the procedures to be followed for flexible work arrangements for all LSU staff (i.e. Justice-funded legal staff or client-funded support staff). These arrangements must be approved by the Senior General Counsel for legal staff and by the Office Manager for support staff. From our interviews with LSU staff and client department management, we determined that employees are using flexible work arrangements and that client expectations' in terms of deliverables are met as planned. In our opinion, senior management is exercising control over flexible work arrangements.

3.2 Material Resources

The proper control and protection of key assets used in a business operation is an essential aspect of management activity. Measures to help mitigate the chances of assets being damaged or stolen should be operating effectively and these measures should be reviewed regularly to help sustain their efficiency and relevancy.

LSU assets are recorded in the CBSA inventory.

The financial operation of the LSU is supported jointly by the Department of Justice and the CBSA. Assets required by the LSU to deliver legal services are paid from the CBSA budget and consequently remain the client's responsibility. The Office Manager confirmed that it is the

CBSA's policy to capitalize only assets costing more than \$10,000 and to record them in a permanent inventory at the time of purchase.

We reviewed the CBSA Legal Services and Laptops Inventory report and selected a specific transaction to test the effectiveness of the controls in place to support the purchase and subsequent payment of the goods, the charge to the appropriate budget, and the recording of the assets in the permanent inventory. We found controls to be adequate and the assets recorded in the permanent inventory.

The CBSA LSU needs to implement the approved remedial plan designed to address issues with the records storage facility.

The LSU has developed procedures to secure access to the premises. All visitors must register with the reception desk prior to accessing the premises and obtain a temporary access card after submitting personal identification and being signed in by an LSU employee. Upon leaving the building, the visitor returns the temporary access card and collects the document used to secure it.

Files are kept in a separate room controlled by a registry clerk and all files are logged in and out. When the registry clerk is absent, the room is secured. The audit team tested the process and all sample files were traced to the location indicated on the charge-out card.

Since the creation of the LSU, the records room has continued to experience an increasing volume of paper files, resulting in a health and safety hazard as well as a security risk. This was identified as a significant risk in the LSU's business plan and a working group was assigned to address the issue. At the time of the audit, the working group had developed a remedial plan and its recommendations had been approved by the Senior General Counsel. The LSU is working with the CBSA and the Department of Justice to secure funding necessary to set up an additional storage facility. In the meantime, the LSU is planning to change the layout of the current records room to increase its efficiency and effectiveness for dealing with secure files. The LSU is also considering segregating files into two storage areas, with one of the two areas serving as the primary storage facility.

In our opinion, LSU management has implemented appropriate security measures to safeguard assets and ensure the confidentiality of the information contained in files. Management is also addressing identified issues with file storage through the development of a remedial plan. The plan should be implemented to alleviate the risks identified.

Recommendation and Management Response

6. It is recommended that the Senior General Counsel ensure that the approved remedial plan to mitigate the risks associated with the records storage facility is implemented. (Medium Risk)

Agreed. The Senior General Counsel is committed to implementing the LSU's Information and Knowledge Management Action Plan, and in particular, to managing the most pressing objective of this plan, which is to reduce the risks associated with the record storage facility. The following two elements of the plan are directed specifically towards this objective: reducing the volume of files that the LSU is maintaining in the file room by closing and archiving files that are inactive and seeking renovations to the file room to properly and more securely store the files that are active.

Considerable work has been done over the course of the last six months to reduce the volume of files. Since April an administrative staff member has been working full time to prepare files for closing and archiving and to transfer those files to archives. This will significantly reduce the number of files in the file room and, consequently, mitigate the risks associated with the file room.

LSU staff are also working closely with client officials to plan for construction of a larger and more secure file room. As part of the construction project, an assessment of the security needs for documents within the LSU will be completed and recommended security features will be incorporated into the design of the new file room. It is hoped that construction will commence in winter 2012. If there are significant delays in the planned construction, the LSU will look for alternatives to mitigate the risks, such as segregating the files into two storage areas, with the existing file room likely continuing to serve as the primary storage facility, while files used less often would be removed to another location.

3.3 Financial Resources

The successful management and administration of financial resources within an organization is an essential responsibility of senior management.

The procurement of goods and services is exercised properly and in accordance with the relevant sections of the *Financial Administration Act*.

We examined a sample of purchases initiated by the LSU and traced the following to the initial request: the invoice, the receipt verification, the payment voucher, and the reconciliation of the monthly financial report. We found these to be properly supported and compliant with sections 32 and 34 of the *Financial Administration Act* (FAA) in all respects.

The audit team confirmed that the LSU reconciles all transactions approved for payment against the financial report produced to that effect by the corporate services group responsible for the application of section 33 of the FAA. This procedure is done monthly.

The CBSA LSU prepares monthly financial reports to respond to the requirements of the PSDI Portfolio and assumes control over its budget.

The LSU provides financial situation reports (FSRs) to both the PSDI Portfolio and the CBSA with information on the LSU's A-Base budget, salaries, O&M expenditures, Net Vote Authority, and specified purpose accounts. The LSU also prepares a separate schedule that provides details on the monthly utilization of FTEs by LA groups and levels. The Senior General Counsel approves and signs the FSRs after reviewing them with the Office Manager. Once approved, the FSRs are forwarded to the respective recipient.

Financial transactions controlled by the CBSA are entered into the CBSA financial system as they are incurred and are subject to FAA section 32, 33, and 34 approvals. At month end, all CBSA transactions are reviewed for completeness, accuracy, and timeliness, and any necessary adjustment is done before a FSR report is generated by the system. Once approved, the CBSA FSR report is submitted to the CBSA financial group.

Budget variances are analyzed and explained, and any outstanding issues are investigated and resolved for the next reporting period. We found that LSU management exercises good controls over its budget.

4. OBSERVATIONS – INFORMATION SYSTEMS AND MANAGEMENT

4.1 Information Systems

Information systems are essential tools in an organization’s decision-making process and should facilitate this process and provide current and consistent information to users. They must also be user friendly and provide relevant, timely, and accurate information.

The CBSA LSU has access to a variety of information systems that support decision making, setting of objectives and priorities, and utilization of resources.

From an operational perspective, the LSU accesses the departmental and CBSA financial systems and the PeopleSoft human resources management system to manage financial resources and employee information. We found that LSU staff populate information into these systems on a timely basis. This allows management to generate the financial and other reports needed to assess the financial position of the LSU at any time and monitor progress against objectives and priorities set in the business plan.

From a client service delivery perspective, the LSU accesses iCase, RIMS, LOPORS, GASPARD, JUSnet, and Folio Views. There is an interface linking RIMs and iCase, so any information entered into RIMS is automatically transferred to iCase. Both systems are used in file management, as RIMS manages the logistical organization of the files (e.g. file number) while iCase produces reports on billable time by counsel, type of work, and the CBSA unit serviced.

The CBSA LSU uses Folio Views, an LSU internal system, to track historical legal decisions and opinions provided to the CBSA. In interviews counsel indicated that while they find Folio Views valuable and use it in conjunction with LOPORS (a similar system used by the Department at large), Folio Views has limited search capabilities. During the audit, the LSU’s Information

Management Working Group was exploring options of either replacing Folio Views with another system or upgrading it to address this issue.

In our opinion, the CBSA LSU has access to the systems required to support decision making, setting of objectives and priorities, and utilization of resources.

Information generated from the systems used is adequate, reliable, and complete.

As noted in “Financial Resources”, the CBSA LSU receives financial reports from both the departmental IFMS and the CBSA financial system. Our review of the reports confirmed that the information provided to the LSU is reliable and complete and provides sufficient information to support management’s budget monitoring and planning processes.

The audit team tested information generated from RIMS to ascertain its reliability and completeness. We selected a sample of files from a list generated from RIMS for a specific counsel and we were able to locate the files based on the information found on the list. Mechanisms within RIMS and iCase have been developed to ensure that a file cannot be deleted if time has been charged to it.

The audit team tested iCase for information related to timekeeping and we reviewed a report that outlines the time spent by lawyers on their files. We found that counsel enter time into the system. As noted earlier, the National Timekeeping Protocol requires all counsel to enter time in iCase and the CBSA Legal Services Manual provides guidance on the procedures for entering time into the system.

Management has identified inconsistencies in iCase with the labelling of similar activities reported by counsel against their files. Management has also identified a need to generate a report by type of work activity and has therefore assigned the task of developing a standard activity list to the Time Management Working Group. We were advised that a projected completion date for the project is March 2011.

In our opinion, information from the systems used is adequate, reliable, and complete.

4.2 Information Management

The management and administration of client legal files is fundamental to operate successfully in a legal environment. Appropriate file management allows for effective and efficient responses to client requirements and permits legal counsel to prevail in court proceedings.

The CBSA LSU is addressing identified deficiencies in the records management process through appropriate mechanisms but needs to develop formal criteria for the closing of files.

The Department of Justice issues departmental guidelines to ensure the efficient management of files and records. At the LSU level, the CBSA Legal Services Manual outlines the process supporting the management of electronic data: staff are directed to enter file information on a shared drive and access is provided to those who need to view the information.

As discussed earlier, the LSU has identified the records room as a potential risk, as it is inadequate in terms of security and capacity (i.e. small, crowded, and overflowing with files). Because of these deficiencies, the LSU has undertaken a project to identify which files can be closed and shipped to archives. This activity will be carried forward into the 2011-12 fiscal year.

The CBSA LSU has also developed a manual to support the classification and numbering of files and has circulated this manual to staff. The audit team reviewed the manual and found that it does not contain any formal criteria that can be relied on to determine whether a file should be closed or left active. In the absence of formal criteria, LSU management advised the audit team that files are closed after one year of inactivity on the file. The decision to close a file falls to the lawyer who is responsible for the file. However, as lawyers leave their positions (i.e. promotions, transfers, secondments), responsibility for reading the file and taking the decision to archive it shifts to the newly assigned lawyer. The absence of formal criteria and a reluctance of some lawyers to review and archive files may in part explain why the records room is overflowing with files.

We were told that management has created a Knowledge and Information Management Working Group to review and analyze the existing record management system and review the process used to determine whether files need to be closed and archived. The audit team interviewed the leader of the working group who provided copies of the action plan, report, and lessons learned. We reviewed these and found them to be adequate. However, in our view, the working group should develop formal criteria to support the closing of files.

Management advised us that the LSU has entered into a Memorandum of Understanding (MOU) with the Department of Justice to undertake a Department-wide information management file plan development and conversion project. While an MOU is not required for internal work within the Department, both parties felt that it would provide a clear understanding of respective roles and responsibilities. The work is under way and the conversion of files is expected to start during fiscal year 2011-12.

Recommendation and Management Response

7. It is recommended that the Senior General Counsel ensure that the Information Management Working Group develops formal criteria to support the closing of files. (Medium Risk)

Agreed. The Working Group is in the process of creating formal criteria to guide the closing of files within the LSU. The criteria and any other appropriate procedures related to the closing of files will be approved by the Senior General Counsel and communicated to staff by September 30, 2011. They will also be incorporated into the LSU's Office Procedures Manual.

5. COMPLIANCE WITH THE *OFFICIAL LANGUAGES ACT*

Management should take appropriate measures to ensure compliance with key legislation and related policies.

The CBSA LSU is in compliance with the requirements of the *Official Languages Act*.

The HR staffing plan developed in August 2009 addressed the necessity of reviewing the language profiles of counsel positions. At the time of the audit, this activity had been completed and the language requirements of all LSU positions were clearly identified on the LSU's organizational chart. Some staff have requested language training in order to improve their second language capability or to maintain the level necessary to meet the requirements of their positions. Management has agreed to staff training requests.

Our interviews with staff confirmed that meetings are held in both official languages and that staff are able to communicate in the language of their choice. We examined communications originating from the client and found them to be addressed in the client's original language of choice. Furthermore, we reviewed a sample of internal communications and found the communications to be issued in both official languages.

An official language survey was completed in September 2010 to measure the effectiveness of the encouragement put forward to use both official languages within the LSU and on websites. The survey found the LSU to be compliant.

In our opinion, the CBSA LSU is in compliance with the requirements of the *Official Languages Act*.

The HR staffing plan needs to be updated to include official languages requirements.

The LSU developed an HR staffing plan in August 2009. However, at the time of the audit, it had yet to update the plan to reflect all the actions taken to meet the staffing requirements identified in the plan. One of these requirements was to identify the official languages requirements for each position. As the LSU has completed this activity, the plan should be updated to reflect this.

Recommendation and Management Response

8. It is recommended that the Senior General Counsel ensure that the HR staffing plan is updated to include official languages requirements. (Low Risk)

Agreed. When the LSU underwent its reorganization in April 2010, the Senior General Counsel and members of the management team reviewed the language profiles of each position within the LSU, as well as the linguistic operational requirements of each team, and ensured that each team was properly resourced. The management team continues to review the linguistic operational requirements periodically to ensure that all teams within the LSU are resourced as necessary.

As the auditors note, the organizational chart has already been updated to include the language profiles for each position. The Human Resources Plan is currently being updated and will be finalized by September 30, 2011.

6. OBSERVATIONS – RISK AND LEGAL FILE MANAGEMENT AND FORECASTING DEMAND FOR LEGAL SERVICES

6.1 Risk and Legal File Management

Identifying and managing risk is crucial for the successful completion of legal case work. Early recognition of file risk, evaluating its potential effects, and formulating mitigation strategies help enable legal professionals to ensure successful completion of files.

The CBSA LSU has developed effective risk management practices.

The 2010-11 PSDI Portfolio Business Plan identified nine risks, four of which apply to the CBSA LSU: legal skills and expertise, HR corporate capacity, HR information completeness and accuracy, and IM/IT and information accessibility. Mitigating strategies were developed and incorporated into the LSU's business plan, including the creation of LSU working groups, to address risks and develop solutions.

Treasury Board Secretariat and the Department of Justice jointly developed a guide on best practices for managing legal risk. This was entitled "Best Practices in Legal Risk Management" and was approved in 2010 by the Public Service Management Advisory Committee. The LSU is working with the CBSA to ensure that all programs are reviewed to align with the best practices set out in the guide.

The LSU has established an infrastructure to support the initial assessment of legal risk and the subsequent update throughout the life cycle of a file. Risk is assessed by the Senior General Counsel and team leaders based on their experience, involvement in regular meetings with various bodies within the Department and the CBSA (e.g. Look-Ahead weekly meetings chaired by the Director General, Communications Branch at the CBSA, weekly meetings of the Justice Canada Strategic Legal Issues Committee) and information garnered from the Justice Canada

Early Warning Notes System and departmental systems such as GASPARD, LOPORS, and Folio Views.

After discussion with the Senior General Counsel, team leaders assign files to LSU lawyers with the requisite level of skills and experience. The team leaders and the Senior General Counsel meet regularly with CBSA management to determine the nature of upcoming cases to ensure that knowledgeable and capable counsel are available for priority cases. For complex cases, they will also assign a junior/intermediate lawyer with an assigned mentor (senior lawyer) for knowledge transfer and oversight.

In addition, the LSU has developed risk management strategies through its participation on a number of CBSA committees such as the CBSA Executive Committee and the CBSA Programs Standing Committee and through its participation on a number of Department of Justice portfolio committees. From our interviews with team leaders, we were advised that the LSU will undertake a joint risk management exercise with the CBSA management group in early 2011.

In our opinion, the CBSA LSU has developed effective risk management practices.

The LSU is currently reviewing iCase capabilities to automate the labelling of files with respect to risk.

iCase reports provide information on case files such as subject matter, file number, type of activity, activity status (active or closed), and status date. iCase reports do not, however, provide information on the risk, complexity, or priority level of case files maintained by the LSU.

Through interviews, the audit team was told that the file complexity, priority, and risk level can only be determined once the file has been reviewed and analyzed by the Senior General Counsel or the Team Leader to whom the file has been assigned. This information is then noted on the file but not in iCase. LSU management advised the audit team that the regional offices have developed a mechanism that enables them to enter the risk level of the files into iCase and that the LSU is exploring the development of a similar process.

In our opinion, the LSU is taking adequate steps to automate the process of identifying the risk level in iCase.

The CBSA LSU has developed procedures for receiving instructions from clients and manages legal files in a timely manner throughout their life cycle.

The CBSA Legal Services Manual outlines the LSU's process for receiving requests and instructions from clients and for managing legal files. Through interviews, the audit team confirmed that LSU staff use the process appropriately and that it supports the legal files throughout their life cycle.

The SPPM client survey, last conducted in 2007, provided a high rating to the LSU with respect to timeliness of response to client requests. In our opinion, the survey results confirm that the LSU is managing files in a timely manner.

6.2 Forecasting Demand for Legal Services

Effective forecasting of demand for legal services is fundamental to the effective management of an LSU's legal business.

Forecasting demand for legal services is completed annually and integrated into the budget planning process.

LSU management participates in the CBSA annual planning process through membership on various committees and uses the information gathered on CBSA activities to identify client requirements for legal services on an ongoing basis. This process allows the LSU to forecast the type of resources that will be needed for the coming year to meet client requests for services in a timely manner. Furthermore, the LSU regularly monitors actual expenditures against budgeted amounts to assess outcomes and improve future forecasting.

In our opinion, the CBSA LSU's process for identifying the annual forecasted demand for legal services is effective.

7. OBSERVATIONS – INTERFACES WITH OTHER ORGANIZATIONS

7.1 Department of Justice

In an organization, strong and effective business relations between functioning units help contribute to an efficient and cohesive operation. By maintaining strong interfaces with other departmental units, managers are better positioned to be informed of recent changes in policy and procedures and latest trends in the practice of law. In addition, sound interfaces help legal practitioners ensure that they have explored all avenues for securing the best legal expertise possible, sharing best practices, and fostering consistency in the delivery of legal services.

The CBSA LSU's interfaces with the Department of Justice are satisfactory.

The CBSA LSU receives direction, advice, and support from the PSDI Portfolio regarding financial, human resources, and administrative matters. The Director, Portfolio Services advised that the Senior General Counsel participates in the ADAG's quarterly Management Committee meetings to discuss questions of law as well as administrative and planning issues, and that the LSU provides the Portfolio with the information necessary to complete the DPR, RPP, and the Portfolio Business Plan. The PSDI Portfolio Office confirmed that information received from the LSU is transmitted on a timely basis and meets the needs of the Portfolio.

The LSU also participates in weekly teleconferences with the Portfolio and the regions to share information on law-related matters and Portfolio issues. In addition, the LSU has access to a case summary system that provides updated information on all cases dealt with by the Department and on recent court decisions.

Communication linkages with HQ and regional offices are clearly defined in the CBSA Legal Services Manual, which is accessible to all LSU staff. Staff indicated that they are aware of the

roles and responsibilities of HQ and regional offices through their participation in Department-wide law practice groups.

In our opinion, the CBSA LSU's interfaces with the Department of Justice are satisfactory.

7.2 Client Department

Strong client relationships are built on a foundation of effective communications. Sufficient and timely interfaces with clients allow for the efficient sharing of information between parties and enable appropriate and timely actions to be taken.

The LSU's interfaces with the CBSA are satisfactory.

We found that the LSU has established procedures and processes to support open communications with the client. LSU management participates in various CBSA committees such as the Executive Committee, the Operations Standing Committee, and the Legal Risk Management Committee. This participation allows LSU management to collect information on client requirements. The information gathered is disseminated to staff during team, one-on-one, and general staff meetings.

LSU management has developed a formal MOU with the CBSA that addresses the roles and responsibilities of both the LSU and the CBSA, and articulates performance expectations including service standards and client service delivery expectations. The MOU is revised every two years. At the time of the audit, the Senior General Counsel was discussing with CBSA management the revisions to the next MOU, which is scheduled to be implemented in 2011.

In our opinion, interfaces with the client are satisfactory.

8. OBSERVATIONS – CLIENT SATISFACTION

Client satisfaction levels are a direct result of the quality of service clients receive from a service provider. Formal client satisfaction surveys are important tools for obtaining feedback on client satisfaction and providing information for effective improvement.

The CBSA is satisfied with the services provided by the LSU.

The SPPM client satisfaction survey, completed in 2007, assessed the timeliness, usefulness, and responsiveness³ of the services the LSU provides to the CBSA. The survey results for overall client satisfaction with the LSU's services were 8.0 for timeliness, 7.9 for usefulness, and 7.9 for responsiveness. The survey showed that for these elements, the LSU's ratings were higher than the Portfolio for timeliness, the same for usefulness, and slightly below for responsiveness. A new SPPM survey is scheduled to be conducted in February 2011.

The LSU has incorporated in its MOU with the CBSA the same performance criteria (timeliness, usefulness, and responsiveness) as that found in the SPPM survey. The MOU is updated every two years and provides the LSU with CBSA feedback on its level of satisfaction with LSU services. The audit team reviewed the results of the most recent feedback and found it to be positive.

The audit team interviewed selected CBSA personnel to acquire information on client satisfaction. We used the same criteria as in the client satisfaction survey (i.e. responsiveness, usefulness, and timeliness) and requested personnel to provide their opinions. Based on the comments received, we conclude that the client department is satisfied with the services provided by the LSU.

³ Extensive research completed over the past two decades has identified responsiveness, usefulness, and timeliness as important predictors of overall perceptions of service quality. The Justice Canada Client Feedback Survey uses a 10 point scale to garner client feedback. (From the SPPM website)

9. RECOMMENDATIONS AND MANAGEMENT RESPONSES

- 1. It is recommended that the Senior General Counsel ensure that minutes are taken to document all decisions affecting the management of the LSU to safeguard corporate memory. (Low Risk)4**

Agreed. The Senior General Counsel will ensure that all decisions affecting the management of the LSU are documented for the purposes of ensuring corporate memory. The types of decisions that will be recorded will include all high-level management decisions that will have a long-term impact for the management of the LSU. These decisions will be documented in a concise set of minutes to be kept at any management team, all-staff, and lawyers' meetings when such decisions are taken. All LSU staff will be advised of this new procedure and will be able to access the minutes electronically. The LSU's Office Procedures Manual will be updated to reflect this approach. This procedure will be implemented immediately.

- 2. It is recommended that the Senior General Counsel ensure that the business plan is finalized and fully integrated. (Low Risk)5**

Agreed. The Senior General Counsel will ensure that the business plan is finalized and fully integrated to include the necessary budgetary information and the Human Resources Plan by November 15, 2011.

- 3. It is recommended that the Senior General Counsel ensure that formal reporting of progress against the business plan is conducted to facilitate the monitoring of objectives and resulting follow-up actions. (Low Risk)8**

Agreed. The LSU will adopt a process whereby reporting of progress against the business plan will occur twice a year. The format of the business plan includes a section that reports on the activities of the previous fiscal year, describing those activities as well as the challenges faced and progress achieved over the course of that period. This reporting

against the previous year of work will occur at the beginning of each fiscal year as part of the preparation of that year's business plan. In addition, a review will be undertaken in September/October every year, which will report on the first six months of activity of each fiscal year (April-September) against the business plan. This resulting semi-annual report will be discussed at the management team meeting, finalized, and attached to the yearly business plan. The business plan and the semi-annual report will be circulated to all LSU staff, as well as within DOJ and the client agency as appropriate.

As the auditors have noted, the LSU is currently behind in its business planning cycle. The 2010-11 integrated business plan will be finalized by November 15, 2011. The 2011-12 integrated business plan will be completed by January 31, 2012. This plan will contain a section that reports against the activities of the 2010-11 fiscal year. The 2012-13 integrated business plan will be in place by June 29, 2012 and will contain a section that reports against the activities of the 2011-12 fiscal year. The first semi-annual report will be completed by October 31, 2012. Following this, the LSU will maintain its annual business planning cycle and will report against its business plan twice a year, at the beginning of the new fiscal year and in September/October of each year as described above.

4. It is recommended that the Senior General Counsel ensure that the CBSA Legal Services Manual is finalized and distributed to staff. (Low Risk).....12

Agreed. The LSU's Office Procedures Manual will be finalized by March 31, 2012 and distributed to all staff. While there is a solid draft of the manual already prepared which is currently being used by staff, it is expected that there will be significant new procedures and direction developed over the course of the next six to eight months that will need to be documented in the manual.

5. It is recommended that the Senior General Counsel ensure that the work objectives for team leaders refer to assigned responsibilities for their corporate priority in order to facilitate the performance appraisal process. (Low Risk).....15

Agreed. As a result of the redesign of the LA classification standard, the team leaders in the LSU are now included in the Law Management (LC) Occupational Group and are required to prepare performance agreements as set out in Appendix B of the Treasury Board's *Directive on the Performance Management Program for Executives*. The Senior General Counsel will ensure that the team leaders' performance agreements include Key Commitments relating to those that the Senior General Counsel has identified in her

performance agreement and that reflect the LSU's corporate management priorities as outlined in its business plan. As a result, each team leader will have objectives that refer to their priority activities as assigned by the Senior General Counsel. This recommendation is currently being implemented: the PSDI Portfolio is in the process of preparing performance agreements for its executives for fiscal 2011-12 and this recommendation will be implemented as those agreements are finalized.

6. It is recommended that the Senior General Counsel ensure that the approved remedial plan to mitigate the risks associated with the records storage facility is implemented. (Medium Risk)18

Agreed. The Senior General Counsel is committed to implementing the LSU's Information and Knowledge Management Action Plan, and in particular, to managing the most pressing objective of this plan, which is to reduce the risks associated with the record storage facility. The following two elements of the plan are directed specifically towards this objective: reducing the volume of files that the LSU is maintaining in the file room by closing and archiving files that are inactive and seeking renovations to the file room to properly and more securely store the files that are active.

Considerable work has been done over the course of the last six months to reduce the volume of files. Since April an administrative staff member has been working full time to prepare files for closing and archiving and to transfer those files to archives. This will significantly reduce the number of files in the file room and, consequently, mitigate the risks associated with the file room.

LSU staff are also working closely with client officials to plan for construction of a larger and more secure file room. As part of the construction project, an assessment of the security needs for documents within the LSU will be completed and recommended security features will be incorporated into the design of the new file room. It is hoped that construction will commence in winter 2012. If there are significant delays in the planned construction, the LSU will look for alternatives to mitigate the risks, such as segregating the files into two storage areas, with the existing file room likely continuing to serve as the primary storage facility, while files used less often would be removed to another location.

7. It is recommended that the Senior General Counsel ensure that the Information Management Working Group develops formal criteria to support the closing of files. (Medium Risk).....24

Agreed. The Working Group is in the process of creating formal criteria to guide the closing of files within the LSU. The criteria and any other appropriate procedures related to the closing of files will be approved by the Senior General Counsel and communicated to staff by September 30, 2011. They will also be incorporated into the LSU's Office Procedures Manual.

8. It is recommended that the Senior General Counsel ensure that the HR staffing plan is updated to include official languages requirements. (Low Risk).....26

Agreed. When the LSU underwent its reorganization in April 2010, the Senior General Counsel and members of the management team reviewed the language profiles of each position within the LSU, as well as the linguistic operational requirements of each team, and ensured that each team was properly resourced. The management team continues to review the linguistic operational requirements periodically to ensure that all teams within the LSU are resourced as necessary.

As the auditors note, the organizational chart has already been updated to include the language profiles for each position. The Human Resources Plan is currently being updated and will be finalized by September 30, 2011.

APPENDIX A – CONTEXTUAL INFORMATION

LSUs are responsible for providing client organizations with legal advice and assistance to facilitate their operations, and for ensuring that their policies, programs, and operations conform to the law. LSUs interact with other sectors of the Department of Justice regarding litigation with which their clients are involved and to obtain advice on specialized matters, such as compliance with the *Canadian Charter of Rights and Freedoms*. LSUs are generally located in the same building as the client department, which facilitates interaction, promotes communication, and allows LSU management to attend their client's senior management committee meetings.

All LSU lawyers are Department of Justice employees while support staff are employees of the client department. The client department also assumes the cost of office materials, supplies, and equipment, and provides furnished accommodation to the LSU.

The costs of LSU lawyers are covered by a rate structure formula based on the average salary of all lawyers at a given level (i.e. LA1 or LA2) as well as an O&M charge of two percent of salary for training plus \$1,600 for bar fees; central administrative support costs, set at \$4,266 per employee; and employee benefits, set at 20 percent of salary. All lawyers working in an LSU are costed according to this rate structure, whether they are funded by the Department of Justice or the client department. This allows a total cost for all lawyers working in each LSU to be calculated. The LSU A-base is then subtracted from that total cost, and the client department or agency is billed quarterly for the difference.

Legal services are billed to the client department based on a set formula approved by Treasury Board and are settled through interdepartmental settlements. The CBSA LSU was created in early 2004 from portions of the LSUs of two departments (Revenue Canada and Citizenship and Immigration Canada) to serve the newly created CBSA. The CBSA LSU provides a full range of legal services (legislative, advisory, and litigation support). The LSU also supports the organizational and corporate needs of the CBSA.

APPENDIX B – METHODOLOGY

The audit was conducted based on the following methodology:

- an analysis of the management control framework in place using a risk-based approach related to key elements of the framework;
- a review of the relevant policies supporting the framework;
- a review, analysis, and discussion with the stakeholders of all documentation collected throughout the audit;
- interviews with staff from the LSU and the CBSA;
- examination of LSU premises.

APPENDIX C – RISK ASSESSMENT GUIDELINES FOR AUDIT RECOMMENDATIONS

Examples of criteria used for assessing the risk level of audit recommendations are outlined below:

Assessment	Criteria
High	<ul style="list-style-type: none"> • Controls are not in place or are inadequate. • Compliance with legislation and regulations is inadequate. • Important issues are identified that impact the achievement of program/operational objectives.
Medium	<ul style="list-style-type: none"> • Controls are in place but are not being sufficiently complied with. • Compliance with central agency/departmental policies and established procedures is inadequate. • Issues are identified that impact the efficiency and effectiveness of operations.
Low	<ul style="list-style-type: none"> • Controls are in place but the level of compliance varies. • Compliance with central agency/departmental policies and established procedures varies. • Opportunities are identified that could enhance operations.