



TAX LAW SERVICES
Ottawa Section

July 2011

Internal Audit Branch

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STATEMENT OF ASSURANCE

We have completed the internal audit of Tax Law Services – Ottawa Section. The overall objective of this audit was to provide assurance that the management framework within which the TLS – Ottawa Section operates is effective

The internal audit was conducted in accordance with the requirements of the Treasury Board (TB) *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 framework against criteria derived from the Committee of Sponsoring Organizations (COSO) Entity Level Control Framework, the TB Core Management Control Framework, the TB Management Accountability Framework (MAF), as well as TB audit guides. The audit incorporates key elements of the MAF under the various audit objectives.

In our professional judgment, sufficient and appropriate audit procedures have been conducted and evidence has been 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 audit criteria. It should be noted that the conclusions are only applicable to 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 practices, procedures, and activities relating to the framework within which the TLS – Ottawa Section delivers its services to clients were sound. Overall, the TLS – Ottawa Section has management and control structures in place to support the effective delivery of its services to clients; however, the audit identified some opportunities for improvement. These opportunities include the enhancement of business planning initiatives, the formalization of succession planning activities, the conduct of an organizational review to assess and support resource levels, the additional support of training related to financial administrative responsibilities, and the consideration of options to improve the reliability of related information systems.

Background

The Department of Justice Tax Law Services (TLS) Portfolio provides legal advice and litigation services to the Canada Revenue Agency (CRA) through regional TLS sections located across Canada. The Portfolio is responsible for representing the Crown in all tax-related matters before the courts.

The TLS – Ottawa Section provides a wide range of legal services to the CRA, including conducting litigation before the Tax Court of Canada, the Federal Courts and the Supreme Court of Canada.

The scope of the audit included the operations and activities of the Tax Law Services Section in Ottawa. The audit planning and on-site examination phases were carried out between May and November 2010.

Management Framework

The TLS – Ottawa Section has a sound management control framework that includes the following key management functions: governance and strategic direction; business planning; organizing; controlling; and leading and communicating.

The TLS – Ottawa Section has an appropriate oversight body in place effectively providing operational guidance and direction. The National Tax Board of Directors is the central oversight body for the TLS Portfolio. Senior management from the TLS – Ottawa Section are included in the membership composition of the National Tax Board of Directors. Its meetings serve as the primary forum for discussion and strategic decision making.

The Director and Deputy Director, TLS – Ottawa Section conduct semi-annual business planning sessions with the TLS Portfolio Business Management Section and the Assistant Deputy Attorney General (ADAG), TLS Portfolio, as well as regular weekly management meetings with the ADAG to discuss business planning initiatives. However, the TLS – Ottawa Section needs to develop a business plan to formalize the Director’s regular communications with the ADAG regarding the Ottawa Section’s objectives.

The organization of the TLS – Ottawa Section is appropriate and roles and responsibilities are generally understood. The TLS – Ottawa Section is located in close proximity to the TLS Portfolio Office, which facilitates regular communication and collaboration. TLS – Ottawa Section senior management hold regular meetings to discuss pertinent organizational and financial matters. Clear job descriptions define the responsibilities of each job category and classification level. We found that the organizational structure allows for management and staff to be clearly held accountable for the conduct of their duties.

The TLS – Ottawa Section has an appropriate legal file assignment process in place. The Associate ADAG (Tax Assessment) assigns a complexity level to a file and an initial risk level and then assigns the file to the TLS – Ottawa Section. Once the file is allocated to the TLS – Ottawa Section, the Director in consultation with the Deputy Director evaluates the initial file assignments and ensures that all files are assigned to lawyers having the appropriate skills and experience. The Director and Deputy Director meet with each lawyer personally to discuss caseload requirements and current workloads.

Effective communication exists in the TLS – Ottawa Section to provide the appropriate level of leadership, guidance, and direction for Ottawa Section personnel. The Director and Deputy Director communicate with staff through regular bi-weekly meetings and ongoing one-on-one communications. Also, the level and extent of the TLS Portfolio Office’s direction to and

communication with Ottawa Section senior management assists the Director in providing effective communication and leadership to Ottawa Section staff. Regular meetings occur between Ottawa Section senior management and the TLS Portfolio Office and an open-door policy is maintained. In addition, the audit determined that the information system Fiscal Path facilitates the dissemination of necessary Portfolio information.

Human, Financial, and Materiel Resources

Formal succession planning documents are not in place in the TLS – Ottawa Section. Succession planning activities in the section focus on knowledge transfer activities rather than on the replacement of people. However, these activities have not been formalized in an official succession plan. Due to the highly technical nature of tax law casework, there is a need to maintain sufficient expertise to address workload capacities. In our opinion, the TLS – Ottawa Section should develop a formal succession plan and update it on a regular basis.

The TLS – Ottawa Section has an appropriate ratio of legal counsel to legal assistants to assist counsel in completing their case files. However, we were told that the number of administrative assistants in the TLS – Ottawa Section is insufficient to complete administrative workload requirements. The TLS – Ottawa Section Director should conduct an organizational review to determine the appropriate level of administrative assistants.

Both paralegals and legal counsel advised that legal counsel are relying more on the Ringtail system to manage legal documents, and consequently, legal support staff must be proficient in its use. We were told that in the TLS – Ottawa Section, paralegals in particular require additional training on using Ringtail. The audit team was advised that specific Ringtail training is planned for all TLS Portfolio staff beginning in the fall of 2010.

We also found a need in the TLS – Ottawa Section to provide administrative assistants with additional training on the software tools they use to conduct their financial administrative responsibilities.

An effective performance appraisal process exists to evaluate employees. TLS – Ottawa Section personnel complete individual learning plans and meet the five-day minimum requirement for training under the Department's *Learning Policy*.

Flexible work arrangements within the TLS – Ottawa Section are appropriate and made available to all staff. TLS – Ottawa Section senior management grant approvals for flexible work

arrangements on a case-by-case basis. All management decisions appropriately consider client obligations and court deadlines prior to the approval of flexible work arrangements.

TLS – Ottawa Section senior management advised the audit team that the implementation of the Law Practice Model is a significant factor impacting all facets of operations including hiring and retention of counsel. We were told that the Law Practice Model limits management’s ability to both promote capable legal staff and offer appropriate compensation to top recruits. TLS Portfolio senior management advised the audit team that the Portfolio has made a formal submission to the Deputy Minister Team to staff senior counsel for new complex and high-risk legal files.

The audit team determined that the TLS – Ottawa Section effectively manages its financial resources and has an appropriate planning and budgeting process. There are no formal TLS-specific procedures manuals in place to help guide administrative personnel. However, TLS – Ottawa Section personnel refer to both departmental and Treasury Board policies and procedures manuals when assistance is required. Personnel at all levels communicate with the appropriate groups, such as the Portfolio Business Management Section, to obtain further guidance and direction when required.

Regular financial reports are generated to provide senior management with a financial overview of the TLS – Ottawa Section. Also, the Director, TLS – Ottawa Section and the Director of the Portfolio Business Management Section meet regularly to discuss various transactions and key general ledger accounts. These meetings help to ensure proper coding of expenses and help validate all expenses charged to the TLS – Ottawa Section.

The audit determined that intellectual and physical assets are appropriately protected. Access to the TLS – Ottawa Section building is restricted and controlled by valid security identification cards. Computer workstations are password-protected and access to files maintained on iCase is granted only to the TLS portfolio staff.

Information Systems

TLS – Ottawa Section personnel stated that the search function of the Fiscal Path system is not user-friendly. Rather than rely on Fiscal Path, Ottawa Section personnel will revert to other sources of research when preparing legal factums and other relevant documents for court proceedings. Fiscal Path is a TLS Portfolio system and options for improving its search functionality should be pursued.

Timekeeping information and legal file administration within the TLS – Ottawa Section is appropriately managed through the use of iCase. Ottawa Section senior management is satisfied with the information contained in the reports produced by iCase and they effectively use these reports in formulating management decisions.

Compliance with Key Legislation

The TLS – Ottawa Section is in compliance with key legislation and policies. The Portfolio Business Management Section conducts random spot checks of the TLS – Ottawa Section and reviews sample transactions throughout the year to verify the appropriateness of the transactions and compliance with policies. Management procedures are in place to ensure compliance is maintained within the TLS – Ottawa Section.

Risk Management and Legal File Management

The early identification and continual monitoring of legal file risk and its potential impact on the client is a fundamental aspect of the TLS – Ottawa Section’s risk management activities. The Associate ADAG (Tax Assessment) provides an initial risk of loss and client impact rating and ascribes the file to a specific TLS regional section. Once a file is received in the TLS – Ottawa Section, the Director reviews the initial risk assessment and the related impact, and in consultation with the Deputy Director, determines which legal counsel should be assigned to the file based on an assessment of the knowledge, skills and experience level of counsel, and the capacity of counsel. During the life cycle of each client file, the risk is monitored and revisited to ensure that the rating remains relevant as the case develops. Continual communication with the client supports the TLS – Ottawa Section legal counsel in determining the appropriateness of the ratings. There are dedicated meetings with the client to address high-risk files and to regularly compare risk reports. The audit team determined that risk management in the TLS – Ottawa Section is appropriate.

The TLS – Ottawa Section is efficient in managing and administering the legal files assigned to the section. The audit team determined that the client is consistently satisfied with the management of legal files by TLS – Ottawa Section personnel and that the TLS – Ottawa Section consistently meets court-appointed deadlines and procedures.

The TLS – Ottawa Section conducts litigation primarily concerning tax decisions made by CRA. As this litigation is reactive, forecasting future demand for TLS legal services is challenging. To the extent possible, the TLS – Ottawa Section is effective in forecasting and managing the

demand for future legal work through effective, ongoing communication with the CRA and persistent monitoring of current client files.

Interfaces with other Justice Sectors and Client Departments

There is an appropriate level of communication with other Department of Justice sectors. TLS – Ottawa Section personnel effectively utilize both formal and informal means of communication with other sectors of the Department. When tax matters encroach on other areas of the Canadian legal system, the TLS – Ottawa Section effectively seeks guidance and direction from legal counsel in other portfolios who have specialized skills in the required area.

Interfaces with the CRA are appropriate. There is ongoing, continuous communication through regular committee meetings. We found that the number of committees in place, each with its own specific purpose, objectives, and expected outcomes, as well as the TLS – Ottawa Section’s membership and direct involvement in these committees increases efficient communications and effective direction in the normal day-to-day course of business.

Client Satisfaction

The central client of the TLS – Ottawa Section is the CRA. We determined that the CRA is satisfied with the TLS – Ottawa Section’s level of service. The 2008 TLS Portfolio client feedback survey indicates CRA satisfaction levels are high.

The management responses to the recommendations contained in this report were provided by the Director, Tax Law Services – Ottawa Section.

1. INTRODUCTION

1.1 Background

The Department of Justice employs approximately 4,300 individuals and delivers legal services including advisory, litigation, and legislative and regulatory drafting. The Department provides legal services to government on a portfolio basis. Six portfolios encompass the range of federal departments and agencies.

The Tax Law Services (TLS) Portfolio is dedicated to providing legal services to the Canada Revenue Agency (CRA). Under the authority of the *Canada Revenue Agency Act*, the CRA is responsible for the administration of tax programs as well as the delivery of economic and social benefits. It also administers certain provincial and territorial tax programs. The CRA promotes compliance with Canada's tax legislation and regulations and plays an important role in the economic and social well-being of Canadians.

The Assistant Deputy Attorney General (ADAG), Tax Law Services heads up the TLS Portfolio, which is comprised of approximately 300 counsel. The TLS Portfolio delivers legal services through a departmental legal services unit (LSU) co-located with the CRA and seven regional TLS sections located across the country². This audit focused on the regional TLS section located in Ottawa.

The TLS – Ottawa Section provides a wide range of legal services to the CRA, including conducting litigation before the Tax Court of Canada and the Federal Court, and dealing with disputes concerning assessments and reassessments of taxes by CRA under the *Income Tax Act*, the *Excise Tax Act* (HST/GST), and the *Employment Insurance Act*.

The TLS – Ottawa Section consists of 70 staff and has an annual O&M and Salary budget for 2010-11 of approximately \$7.9 million.

² TLS regional sections are located in Halifax, Montreal, Ottawa, Toronto, Saskatoon and Winnipeg, Edmonton, and Vancouver.

The key risk factors that were considered in relation to this audit entity include: impact of legal work on the programs and activities of the CRA; appropriateness of linkages with Department of Justice organizations; ability to respond to client demand for legal services; 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; management of electronic information; and appropriateness of linkages with the client. These risk factors were considered in the development of the audit program.

1.2 Audit Objectives and Scope

The overall objective of this audit was to provide assurance that the management framework within which the TLS – Ottawa Section operates is effective

The scope of the audit included the operations and activities of the TLS Section in Ottawa. The audit focused on: practices, procedures, and activities relating to the management control framework and the management of human, financial, and materiel resources; reliability of information contained in information systems; compliance with key legislation and related policies; risk and legal file management and forecasting demand for legal services; interfaces with other Justice sectors and client departments; and client satisfaction.

The audit included the operations and activities of the TLS Section in Ottawa.

The planning and on-site examination phases of the audit were carried out between May and November 2010.

2. OBSERVATIONS – MANAGEMENT FRAMEWORK

2.1 Governance and Strategic Direction

An oversight body is in place and operating effectively.

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.

The National Tax Board of Directors (NTBD) is the oversight body in the TLS Portfolio, providing strategic guidance and direction to all sections of the Portfolio. The mandate of the NTBD states that the NTBD is the “primary forum of consultation and strategic decision making for questions of a functional nature and of national interest within the mandate of the Portfolio.” The ADAG, Tax Law Services chairs the NTBD, which is comprised of the following TLS Portfolio members:

- the ADAG
- the two Associate ADAGs
- all TLS Portfolio directors and deputy directors
- the Senior General Counsel who represents the CRA LSU
- the Senior Advisor to the ADAG
- the Director, Business Management Section

The NTBD meets in person three to four times per year, by teleconference on a bi-weekly basis, and as needed. The meetings address all operational matters as they relate to the achievement of TLS Portfolio plans and priorities.

The NTBD keeps abreast of national issues related to tax law matters through review and discussion of performance management reports documented in the “Blue Book”. Last revised in

May 2010, the Blue Book is prepared by Portfolio management and provides the Portfolio with a performance management framework used to evaluate the Portfolio in its delivery of legal advisory and litigation services to the CRA. In addition to the performance management framework, the Blue Book includes an analysis of the achievement of priority areas related to international and large client files, cost benefit/effectiveness of operations, sound financial management related to FTEs and resources, and litigation results. The TLS – Ottawa Section provides input into the Blue Book reporting process.

The NTBD monitors each region’s progress toward the achievement of the strategic plans and provides necessary further direction. Management decisions are made during NTBD meetings and the TLS portfolio directors communicate these decisions to their respective regional offices. These decisions are recorded in the Green Book, which was revised in February, 2010. The Green Book contains data on current year FTE distributions, budget allocations, revenue forecasts, and pertinent information related to planning for the coming fiscal year.

We reviewed the terms of reference for the NTBD including the mandate, meeting agendas and minutes, a sample of Blue Book reporting, a sample of decisions recorded in the Green Book, and relevant supporting documents pertaining to NTBD meetings. We found that the NTBD is an effective oversight body that includes the right mix of individuals to provide appropriate oversight and fulfill its mandate.

2.2 Business Planning

The TLS – Ottawa Section has not developed a business plan.

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 TLS – Ottawa Section regularly communicates with the Portfolio regarding business planning initiatives and progress toward its objectives. We were told that the Director and Deputy Director meet with the Portfolio Business Management Section and the ADAG at least twice a year to discuss the Ottawa Section’s business planning. The Director, Deputy Director, and the ADAG also have regularly scheduled weekly management meetings to discuss the Ottawa Section’s business planning initiatives. However, we found that the TLS – Ottawa Section does not have a formal written business plan. Moreover, we reviewed the TLS Portfolio Business Plan, which is written by the ADAG and Associate ADAGs, and found that the Portfolio Business Plan does not specifically refer to the Ottawa Section’s objectives.

It is our opinion that the TLS – Ottawa Section needs to develop a business plan to formalize the Director’s regular communications with the ADAG regarding the Ottawa Section’s objectives. Once the business plan has been developed, it could be provided to the ADAG for inclusion in the Portfolio Business Plan.

Recommendation and Management Response

1. It is recommended that the Director, TLS – Ottawa Section develop a business plan that sets out specific objectives for the TLS – Ottawa Section. (Low Risk)³

Agreed. The TLS – Ottawa Section will develop a business plan to formalize its specific objectives in terms of the delivery of quality legal services to the Canada Revenue Agency and the organization’s ability to meet its current and future work. Completion date: By the end of this fiscal year, the TLS – Ottawa Section will simultaneously develop a formal business plan during the TLS Portfolio’s business planning cycle. This plan will be updated annually.

2.3 Organizing

The organization of the TLS – Ottawa Section is appropriate.

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

The TLS – Ottawa Section is headed by the Director and includes the Deputy Director, six senior counsel, four general counsel, 34 counsel, seven paralegals, 15 legal assistants, and three administrative assistants. The TLS – Ottawa Section is located on the same floor of the building in which the Portfolio office is located. This facilitates regular communication and collaboration.

Roles and responsibilities of the TLS – Ottawa Section and the TLS Portfolio Office are generally understood. The TLS Portfolio Office is responsible for all planning and organizing activities, in collaboration with the regional offices. The Ottawa Section’s responsibilities include providing litigation and advisory services to the CRA and providing assistance to other TLS regional sections. The TLS – Ottawa Section is not responsible for performing collections work; all collection work that arises in Ottawa is transferred to the Quebec Regional Office

³ The Risk Assessment Guidelines for Audit Recommendations are found in Appendix B.

(Ottawa). The TLS – Ottawa Section also operates as an overflow section to deal with matters that other TLS sections/regions are unable to handle due to workload capacity or lack of expertise. The ADAG communicates the requirements directly to the Ottawa Section Director. From our consultations with the Director, Deputy Director, and legal counsel and our review of meeting minutes, we found that the TLS – Ottawa Section senior management (the Director and Deputy Director) meet on a regular basis to discuss pertinent organizational and financial matters that pertain to the TLS – Ottawa Section.

The TLS – Ottawa Section has prepared job descriptions for each category of personnel. Also, the section has sufficient numbers of bilingual staff to enable it to address the bilingual case files of both Ottawa and other regions.

We were told that in conjunction with the ADAG, the Director annually reviews the Ottawa Section staffing plan as well as the level and skill set of resources in the section to assess workload requirements and assist in the appropriate distribution of case files to staff. This review process assists in ensuring that the TLS – Ottawa Section is organized with the necessary combination of resources to address its complex files.

Based on interviews and our review of the delegation of authority tables, we found that there is appropriate delegation of authority in the TLS – Ottawa Section. Delegation of authority testing takes place for those who have been delegated with various levels of authority to ensure the Ottawa Section is appropriately organized. Removal of delegated authority can also take place. The Director stated that the Ottawa Section functions effectively with the current delegation of authority. In our opinion, the delegation of authority is operating effectively.

We found that the organizational structure allows for management and staff to be clearly held accountable for the conduct and completion of their duties.

2.4 Controlling

An appropriate file assignment process is in place and operating effectively.

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 set of resources.

The TLS – Ottawa Section has approximately 43 lawyers having a broad spectrum of experience, from junior counsel who have recently been called to the Bar to senior counsel with over 37

years experience. Files are assigned to personnel who have the level of skills and experience to appropriately manage and complete the file work. The Associate ADAG (Tax Assessment), TLS Portfolio assigns files to a regional TLS office on a case-by-case basis with consideration given to the complexity and risk levels of each case. The TLS – Ottawa Section Director and Deputy Director assign files to lawyers and ensure that large complex files are assigned to senior lawyers in the section who have the appropriate skills and experience. The Director and Deputy Director meet with each lawyer personally to discuss caseload requirements and current workloads.

We found that the Director and his team have an effective communication process to effectively manage and monitor the file assignment process.

2.5 Leading and Communicating

Leadership and communication in the TLS – Ottawa Section is appropriate.

Communication directly impacts an organization’s ability to achieve success. Management must effectively design strategies to help ensure communication is timely, accurate, and appropriate in achieving planned goals and priorities.

Because of their close proximity in the same building, the TLS – Ottawa Section and the TLS Portfolio Office have a high degree of ready communication and collaboration. The TLS Portfolio Office provides overall direction to the Ottawa Section and shares information through meetings and by maintaining an open-door policy. TLS – Ottawa Section senior management communicates readily with the Portfolio Office by phone, email, or in person whenever guidance or assistance is required on the Ottawa Section’s assigned workload and when financial/budget issues arise. To discuss matters relevant to the TLS – Ottawa Section, the Director has a bilateral meeting with the ADAG every six to eight weeks. In addition, both the Director and Deputy Director participate in the ADAG’s formal weekly management meeting with all Portfolio headquarters managers, as well as in the ADAG’s bi-weekly conference calls and three-times-yearly meetings of the National Tax Board of Directors for the Portfolio. The Director and/or Deputy Director then communicate matters to members of the section, as appropriate. We found that the level and extent of the TLS Portfolio Office’s direction to and open communication with Ottawa Section senior management assists the TLS – Ottawa Section Director in providing effective communication and leadership to Ottawa Section staff.

We found that there are effective and efficient forms of communication within the TLS – Ottawa Section. The Director and Deputy Director communicate with staff through regular bi-weekly meetings and ongoing one-on-one communications. The bi-weekly staff meetings serve as a

forum for discussion with respect to the achievement of strategic goals and priorities. TLS – Ottawa Section personnel advised us that they were satisfied with the communication, direction, and leadership from senior management within the TLS – Ottawa Section.

We also found that the information system Fiscal Path provides the TLS – Ottawa Section with pertinent information on the Portfolio’s values, ethics, and practices.

In our opinion, leadership and communication in the TLS – Ottawa Section is appropriate.

3. OBSERVATIONS – HUMAN, FINANCIAL, AND MATERIEL RESOURCES

3.1 Human Resource Planning

A formal succession plan for the TLS – Ottawa Section needs to be developed and updated regularly.

Succession planning is a continuous, integrated, and systematic approach to developing and retaining employees and corporate knowledge in order to effectively sustain organizational operations. Succession planning activities often focus solely on senior management and leadership positions; however, best practices include consideration of all positions within an organization.

The Associate ADAGs advised the audit team that with respect to succession planning, the TLS Portfolio focuses more on “knowledge transfer” than on the replacement of people. We found that the TLS – Ottawa Section conducts succession planning activities to help facilitate knowledge transfer from senior to junior resources. These activities include the fast tracking of junior counsel to senior positions and the pairing of junior lawyers with more experienced senior lawyers for mentoring purposes. These measures facilitate the sharing of knowledge.

As part of the human resource planning process, regional TLS offices such as the Ottawa Section work collaboratively with the TLS Portfolio Office to help develop human resource plans and strategic priorities, including succession plans. The Director and Deputy Director in the TLS – Ottawa Section are responsible for identifying the section’s succession planning needs and addressing succession planning issues with the support of the TLS Portfolio Office.

The Director advised the audit team that he has informal conversations with the Portfolio Office related to succession planning, and that succession planning is considered and incorporated into the TLS – Ottawa Section staffing plan. The Director further stated, however, that due to

significant workload demands no standalone formal succession planning document has been developed.

Senior management in both the TLS Portfolio and the Ottawa Section acknowledged that there is a risk associated with the lack of a formal succession plan. Due to the highly technical nature of tax law casework, there is a need to maintain sufficient expertise to address workload capacities.

Succession planning is a critical component of sustaining adequate and appropriate corporate knowledge within an organization. Effective planning requires senior management to review and assess appropriate staffing levels and determine the appropriate technical expertise to meet the organization's mandate. In our opinion, the Ottawa Section should develop a formal succession plan and update it on a regular basis.

Recommendation and Management Response

2. It is recommended that the Director, TLS – Ottawa Section ensure that a formal TLS succession plan is developed and updated on a regular basis. (Medium Risk)

Agreed. The TLS – Ottawa Section will work in close collaboration with the office of the ADAG, TLS Portfolio to develop and implement a national succession plan. Completion date: In conjunction with the regional offices and the TLS – Ottawa Section, the TLS Portfolio will develop a national succession plan by the end of this fiscal year. This plan will be updated on a regular basis.

3.2 Number and Mix of Resources

The TLS – Ottawa Section has an appropriate ratio of legal counsel to legal assistants.

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

In the TLS – Ottawa Section legal assistants provide important assistance to counsel during the lifecycle of a legal file (e.g. preparing process documents for filing in legal proceedings, preparing memoranda, and gathering and categorizing documents).

Both the TLS Portfolio Office and the Portfolio Business Management Section advised the audit team that an acceptable ratio of legal counsel to legal assistants is approximately 3:1. The audit

team found that the Ottawa Section has a ratio of legal counsel to legal assistants of 3.07:1⁴. The Director and Deputy Director stated that the number of legal assistants available was sufficient to support the Ottawa Section's current workload.

In our opinion, the TLS – Ottawa Section has an appropriate number of legal assistants available to assist legal counsel in completing their case files.

An organizational review is required to determine the appropriate number of administrative resources.

The Ottawa Section has three administrative resources assigned to the office, which has approximately 76 resources in total. TLS – Ottawa Section senior management advised the audit team that the current complement of administrative resources has the appropriate skill set, but the number of resources is inadequate to meet the section's demands. Administrative assistants stated that although they have the appropriate tools to complete their responsibilities, which include human resources, contracting, and invoicing tasks, they do not have the necessary time to address all the required demands.

We were told that because of the TLS – Ottawa Section's location in the National Capital Region with its large number of national decision-making bodies, administrative assistants in the section have more workload requirements than their colleagues in other TLS regional sections. TLS – Ottawa Section senior management advised that they are in the process of determining where administrative efficiencies can be made, with a view to reorganizing workloads and staff within the section prior to engaging additional administrative resources.

We concur with this approach. The TLS – Ottawa Section should review its organization to capitalize on efficiencies and determine the appropriate number of administrative staff.

Recommendation and Management Response

3. It is recommended that the Director, TLS – Ottawa Section conduct an organizational review to determine the appropriate number of administrative resources. (Medium Risk)

Agreed. The TLS – Ottawa Section has begun an organizational review to determine the appropriate resources required to effectively carry out responsibilities in the areas of

⁴ 46 lawyers including three senior general counsel.

finance, human resources, administration, and office management. Completion date: December 31, 2011.

3.3 Performance Review and Employee Appraisal Process

The Performance Review and Employee Appraisal (PREA) process in the TLS – Ottawa Section is appropriate.

Performance review is an ongoing process in which an employee and the manager/supervisor jointly establish and monitor objectives. Performance reviews and employee appraisals are intended to provide employees with regular feedback on their performance and to identify training and development requirements. The PREA process ensures that employees are given clear work objectives against which their performance will be assessed. Continuous feedback and, at minimum, annual assessments, allow opportunity for recognition of their achievements and discussion of areas requiring improvement.

Through interviews with management and staff and a review of relevant documentation, the audit team found that a formal performance appraisal process exists to evaluate employees' performance, and that it is operating effectively. The performance assessments include specific, measurable goals, and management assesses results according to these goals and objectives.

3.4 Training and Development

Specific training on Ringtail is planned for all TLS Portfolio staff beginning in the fall of 2010.

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

The Department has implemented a fully automated litigation support software system known as Ringtail. The main objective of Ringtail is to assist the Department in managing the growing number of large, complex, and multi-document cases. It is also intended to assist with the initiative of moving toward a paperless environment.

The audit team also found that Ringtail training is provided to TLS – Ottawa Section personnel who have been identified as having an immediate need to access the Ringtail system. The TLS – Ottawa Section is responsible for identifying which employees require training and the Litigation

Support Centre is responsible for informing Ringtail users of upcoming training sessions including refresher courses. These departmental Ringtail training sessions are scheduled regularly every two months and are managed by the Litigation Support Centre.

We were told that in the TLS – Ottawa Section, paralegals in particular require additional training on using Ringtail. Both paralegals and legal counsel advised that legal counsel are relying more on the Ringtail system to manage legal documents, since Ringtail is a very good document management tool, which is accessible wherever a secure Internet connection exists. As more legal counsel use Ringtail, paralegals will require more knowledge of and proficiency with the system.

TLS Portfolio senior management advised the audit team that Ringtail training specifically tailored to the needs of individual staff groups (e.g. counsel, paralegals, legal assistants) is planned for the early fall 2010 for all personnel in the Portfolio.

TLS – Ottawa Section personnel complete individual learning plans and meet the five-day minimum requirement for training under the Department’s *Learning Policy*.

Individual Learning Plans (ILPs) are plans developed in partnership between a manager and employee. The individual learning plan identifies learning goals, associated learning activities, target dates, and the required investment on the part of the Department and the employee.

The Department’s *Learning Policy* requires that every employee receive a minimum of five days of professional development each year. In an effort to record, monitor, and satisfy the mandatory training obligation, all employees must develop an ILP each year. This is done in conjunction with the annual PREA cycle.

We found that TLS – Ottawa Section personnel meet their mandatory five-day annual training requirement. We were told that ILPs are generally prepared at the beginning of each new fiscal year during the annual PREA process. Interviews with Ottawa Section personnel indicated that they are generally able to attend the desired training sessions as long as these relate to their duties and sufficient funds exist within the training budget.

It is our opinion that the TLS – Ottawa Section has met the Department’s requirement for professional development and TLS – Ottawa Section personnel have appropriately completed their ILPs.

Administrative assistants in the TLS – Ottawa Section require additional training with respect to software tools to conduct their financial administrative responsibilities.

Support personnel require appropriate training in order to provide effective assistance to management.

Although administrative assistants in the TLS – Ottawa Section informed the audit team that management encourages an environment of continuous learning, they indicated that they require additional training to conduct their financial administrative responsibilities.

We were told that financial administration information sessions are made available to administrative assistants throughout the year. TLS – Ottawa Section administrative assistants indicated, however, that these sessions are infrequent and are provided on an as-needed basis when new Department-wide systems or applications are established (e.g. updates to the Integrated Finance and Materiel System (IFMS) or Salary Management System (SMS)). Administrative assistants advised that they would be more efficient at completing their financial administrative duties if they were provided with more relevant training on the software tools they require to meet their responsibilities (e.g. Excel, PowerPoint).

From interviews with the TLS – Ottawa Section Director and Deputy Director, the audit team found that management was unaware of administrative assistants' need for additional financial administrative training.

Recommendation and Management Response

4. It is recommended that the Director, TLS – Ottawa Section ensure that training with respect to certain software tools is provided to administrative assistants to assist them with their financial administrative responsibilities. (Low Risk)

Agreed. The Director, TLS – Ottawa Section will ensure administrative assistants are offered training in software tools to assist them with their financial administrative responsibilities including: IFMS (Integrated Financial and Material System); SFT (Salary Forecasting Tool); Excel. Completion date: December 31, 2011.

3.5 Flexible Work Arrangements

Flexible work arrangements in the TLS – Ottawa Section are functioning appropriately.

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

In the TLS – Ottawa Section we found that flexible work arrangements are used to attract and retain employees. Senior management indicated that the benefits of flexibility are emphasized to potential recruits during the recruiting process. Both senior management and staff indicated that flexible work arrangements have been made available to all TLS – Ottawa Section personnel.

We found that flexible working hours, telecommuting, and earned days off (also known as variable or compressed work week) are the central forms of flexibility offered in the Ottawa Section. Flexible working hours are arrangements in which an employee is authorized to begin and end the workday between certain hours as long as the employee's workday hours conform to the core hours of between 9:30 and 15:30. Telecommuting, or working from home, is available in ad hoc situations only. We were told that each request to work from home is reviewed and approved on a case-by-case basis and the staff member must be available during the normal course of a business day. In the TLS – Ottawa Section, earned days off are scheduled for a specific day of the week occurring every two to four weeks subject to operational requirements. When workload deliverables and deadlines require the presence of the TLS staff member (i.e. in the office or at court), the earned day off is rescheduled. Earned days off cannot be accumulated to be used consecutively at a later date. We found that the implementation of earned days off is tailored in accordance to the requirements and demands of the TLS – Ottawa Section.

Overall, we found that TLS – Ottawa Section supports employees in achieving a balance between their professional and personal lives, while maintaining a functional and professional office.

In our opinion, flexible work arrangements are available to employees and are working well within the TLS – Ottawa Section.

3.6 Law Practice Model

The TLS Portfolio made a submission to the DM Team to staff senior counsel for new complex and high-risk legal files.

The ability to hire and compensate both senior counsel and individuals with the appropriate, relevant technical expertise is essential for an effective and proficient legal workforce. Salary level is a significant factor in recruiting and retaining legal counsel.

In the fall of 2009, the Department implemented the Law Practice Model as part of a move to cut approximately \$12.5 million from the Department's overall budget as identified through a 2008 Strategic Review. In doing so, the Law Practice Model directly impacted how the Department's portfolios were structured with respect to the number of lawyers comprising each classification level.

The Department of Justice has six distinct classification levels that apply to legal personnel (LA-1 to LA-3C). The salary level for each classification reflects the complexity of work and specialized legal expertise of the position. During our consultations with TLS – Ottawa Section personnel and management, we were advised that salary levels for counsel within the TLS Portfolio and the Department of Justice are not as competitive as those offered by the private sector and some provincial governments. To mitigate this challenge, management stated that TLS – Ottawa Section recruiters now emphasize the rich variety of TLS legal work, mentorship opportunities from highly trained and very experienced TLS counsel, and flexible work arrangements.

The TLS – Ottawa Section Director and Deputy Director advised the audit team that the implementation of the Law Practice Model is a significant factor impacting all facets of operations including hiring and retention. There is a perception that the Law Practice Model limits management's ability to both promote capable staff and offer appropriate compensation to top recruits. TLS – Ottawa Section management emphasized that the Law Practice Model does not support the highly technical and specialized demands of TLS work. Ottawa Section management advised that the implementation of the Law Practice Model has in effect resulted in junior lawyers working on complex case files and that this work allocation is not sustainable.

3.7 Procedures Manual

There is appropriate procedural guidance for administrative personnel in the TLS – Ottawa Section.

Effective organizations consistently prepare detailed job descriptions, procedure manuals, and guiding documents for their employees. Procedure manuals are intended to provide formal guidance and comprehensive information on completing a particular task. If procedure manuals are not in place, an organization should have other mechanisms in place to assist administrative personnel and other non-legal personnel through unfamiliar situations.

We found that there are no formal TLS-specific procedures manuals in place to help guide administrative personnel in their assigned duties. However, administrative personnel stated that sufficient departmental manuals and TBS guiding documents are available for reference purposes when administrative staff encounter new situations. Although more formalized TLS-specific manuals could benefit Ottawa Section administrative staff, the audit team found that the close physical proximity of the TLS – Ottawa Section to both the Portfolio Business Management Section and the Department’s Chief Financial Officer Branch allows TLS – Ottawa Section administrative personnel to speak directly with the appropriate individuals for guidance and direction whenever such guidance is required. We also found that administrative personnel use the TLS information system, Fiscal Path, to obtain additional guidance on TLS-specific matters.

In our opinion, appropriate procedural guidance is available to assist TLS – Ottawa Section administrative resources with their duties.

3.8 Administration of Financial Resources

The administration of financial resources in the TLS – Ottawa Section is appropriate.

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

The TLS – Ottawa Section works collaboratively with the Portfolio Business Management Section in monitoring and administering the Ottawa Section’s financial resources and ensuring compliance with financial policies and procedures.

The audit team found that the TLS – Ottawa Section communicates regularly with the Portfolio Business Management Section with respect to financial resource allocations to the Ottawa Section. TLS – Ottawa Section management indicated that they are satisfied with the most recent level and timing of initial resource allocations received from the TLS Portfolio. They also advised the audit team that they are continually well informed regarding their final budget allocations.

TLS – Ottawa Section management regularly generates and reviews financial reports from the IFMS and the SMS. In doing so, the Director is responsible for identifying significant variances between management expectations and results observed within the reports.

In our opinion, the financial administration of resources in the TLS – Ottawa Section is appropriate.

Monitoring activities related to financial resources and allocations of expenses are appropriate in the TLS – Ottawa Section.

Administrative personnel generate SAP reports on a monthly basis to provide senior management with a financial overview of the two cost centres in the TLS – Ottawa Section. SAP reports are produced from the IFMS module (Department-wide) and access to the reports is based on the file permissions granted. Data in the reports are secured through system-generated security measures.

Through our interviews and documentation review, we found that TLS – Ottawa Section administrative personnel regularly review expenses that are processed through the cost centres. This review helps ensure the accuracy of accounts being used for expense allocation and validates expenditures that originate within the TLS – Ottawa Section. The audit team also found that the Director and Deputy Director regularly meet with the Portfolio Business Management Section Director to discuss key general ledger accounts (e.g. travel and training) where risks for errors are common because of the large number of financial transactions processed through the accounts. These meetings help to ensure proper coding of expenses and help validate all expenses charged to the TLS – Ottawa Section.

It is our opinion that there is an appropriate level of monitoring of financial resources and expenses related to the TLS – Ottawa Section.

3.9 Control and Protection of Key Assets

Control and protection of key assets within the TLS – Ottawa Section office is adequate.

The proper control and protection over key assets used in a business operation is an essential aspect of management activity. Appropriate 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.

We held consultations with key management and staff within the TLS – Ottawa Section and the TLS Portfolio Office. We reviewed relevant documentation including procedural manuals related to the security of assets on the Department’s Intranet and performed a walkthrough of the iCase information management tool. (For details on iCase, see Information Systems section.)

We found that physical access to the TLS – Ottawa Section building is restricted. Individuals are permitted entry into the building only with a valid security building pass issued by the Bank of Canada. All visitors without a building pass must be escorted by an authorized departmental resource.

The security of client information is controlled and maintained via computer password protection and locked physical filing cabinets. Each computer workstation is only accessible if the user has a password that is in compliance with security standards. We found that access to iCase legal files is only granted to TLS Portfolio personnel. We were told that each TLS office is responsible for establishing its own protection procedures for physical assets. These procedures are established in accordance with the recommendations and guidance provided by the Department’s Accommodations Directorate.

Assets are acquired centrally. Before the initial receipt of an asset, the Department’s Vendor Relations and Contract Administration attach an identification “tracking sticker” and records the pertinent information in a centralized inventory database. This is used to verify the assets in an employee’s possession on leaving the section.

In our opinion, the TLS – Ottawa Section has adequate processes and procedures in place to maintain proper control and protection over departmental assets.

4. OBSERVATIONS – INFORMATION SYSTEMS

4.1 Reliability of Information Systems for Decision Making

TLS – Ottawa Section personnel stated that the Fiscal Path search function is not user-friendly.

Information systems are essential tools in an organization’s decision-making process. In-house systems should be developed in such a way that they facilitate the decision-making process and provide current and consistent information to users. They must also be user-friendly and provide relevant, timely, and accurate information.

Fiscal Path is an information system developed in-house specifically for the TLS Portfolio. The system is linked to the departmental information system known as GASPARD, which is a comprehensive knowledge management system maintained by the Department. Fiscal Path is intended to be a knowledge management tool for TLS. The National Training Coordinator, based in Montreal, is responsible for updating and maintaining Fiscal Path, responsibilities which were assigned to the position approximately three years ago. According to the National Training Coordinator, Fiscal Path has been in existence for several years but has not received appropriate maintenance to keep the system relevant and useful for TLS legal counsel. In an effort to increase the system’s usefulness, relevance, and accuracy, the TLS Portfolio has established an Editorial Board with a representative in each TLS regional section to assist the National Training Coordinator in populating the system with data. An administrative assistant in Montreal inputs the data and the National Training Coordinator oversees and monitors the information entered into the system.

All TLS – Ottawa Section management and staff indicated that Fiscal Path is not user-friendly, as the search function is not reliable. Searches often result in few and/or irrelevant results. The weakness of the search function is the primary reason TLS personnel use more dependable databases/sources such as *CanLII* to obtain necessary legal information for decision making.

TLS – Ottawa Section senior management indicated that Fiscal Path is intended to become the central information system for searching and maintaining past legal factums, court rulings, and other TLS case information. The audit team found that Fiscal Path does not currently operate in this manner. Legal staff advised that they use Fiscal Path for basic administrative purposes such as linking to the TLS phone directory, linking to other relevant Canadian law Web sites, and accessing historical “webinar/training” sessions and materials.

In order for Fiscal Path to become the main source of information for decision-making purposes, improvement to its search functionality will be required.

Recommendation and Management Response

5. It is recommended that the Director, TLS – Ottawa Section, in conjunction with the ADAG, TLS Portfolio, determine appropriate options for improving the Fiscal Path search functionality. (Medium Risk)

Agreed. The TLS – Ottawa Section will work with the office of the ADAG, TLS Portfolio, which is responsible for the Fiscal Path Intranet site. The Portfolio will also work in close collaboration with the Law Practice Management Directorate as the knowledge management component of Fiscal Path is expected to be integrated into *Justipedia*. Completion date: By the end of the year (2011), at the discretion of the Department’s *Justipedia* initiative.

iCase is an effective information management tool for tracking timekeeping information and the progress of legal files in the TLS – Ottawa Section.

Accurate and comprehensive timekeeping information is essential for supporting management in their decision-making responsibilities. Reliable and accurate timekeeping records are critical to formulate appropriate decisions as they relate to equitable resource and workload allocation.

Within the TLS – Ottawa Section, as with the Department as a whole, it is mandatory for all counsel and paralegals to record their time spent on client files. Each TLS employee is required to record their client time within the iCase system to help ensure iCase data is current. The system is a web-based application and was designed by the Department to improve case management, timekeeping, and the generation of informative management reports. The version of iCase used by TLS – Ottawa Section has been modified and customized to the requirements of the TLS Portfolio.

TLS – Ottawa Section senior management advised the audit team that the iCase system is a very useful tool for monitoring both file progress and time spent by each resource on client files. Through consultations, review of business manuals, and an iCase system walkthrough with TLS – Ottawa Section senior management, we found that iCase is a comprehensive information system that captures pertinent data related to an employee’s daily activities. The system is also used to monitor employees’ time spent on tasks other than file work, such as training and administrative duties. Senior management indicated a high level of satisfaction with the iCase system, particularly its broad functionality. iCase generates regular, meaningful reports for TLS – Ottawa Section senior management. We were told that senior management are satisfied with the data retrieved from each report and that iCase reports are useful for identifying trends and making decisions based on these trends. The audit team was also advised that management is of the view that the usefulness of the reports is a direct result of TLS employees entering their timekeeping information in both a timely and accurate manner.

We found that the iCase system is a valuable information management tool. Its functionality is robust and allows TLS – Ottawa Section management to effectively monitor workload, identify trends, and oversee employee timekeeping records.

5. OBSERVATIONS – COMPLIANCE WITH KEY LEGISLATION

5.1 Compliance with Key Legislation and Related Policies

TLS – Ottawa Section is in compliance with key legislation and policies.

Appropriate measures should be put in place by management to help ensure compliance with key legislation and associated policies.

Through our consultations with senior management in both the TLS – Ottawa Section and management in the Portfolio Business Management Section, the audit team determined that the TLS – Ottawa Section is subject to random Portfolio compliance reviews, which help ensure compliance is being maintained. For example, with respect to financial transactions and their compliance with the *Financial Administration Act*, the Business Management Section performs random spot checks and sample evaluations to verify if transactions have been processed correctly and if the appropriate approvals have been obtained to support each transaction.

The audit team also found that the TLS – Ottawa Section personnel rely on the guidance and direction from the Portfolio Business Management Section for advice on the *Official Languages Act*, Government Contracting Regulations, and other related policies and procedures. The audit team observed evidence of the application of bilingualism during meetings. We also found that the Green Book (discussed earlier in this report) contained a staffing plan which stipulates detailed bilingual level requirements for all staff within the TLS – Ottawa Section. Interviewees did not raise any issues with the audit team with respect to bilingualism.

In our opinion, appropriate measures exist to help monitor and maintain compliance with the key legislative documents and related policies in the TLS – Ottawa Section.

6. OBSERVATIONS – RISK AND LEGAL FILE MANAGEMENT

6.1 Risk Management

File risk management in the TLS – Ottawa Section is appropriate.

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 Associate ADAG (Tax Assessment), TLS Portfolio receives notices of appeals for general procedure files directly from the Tax Court of Canada and is responsible for providing an initial risk level and complexity level to the file and then assigning the file to a TLS regional section. This initial rating determination by the Associate ADAG assists in maintaining a level of uniformity in the risk rating process across the Portfolio.

Once a file is allocated to the TLS – Ottawa Section, the Director and Deputy Director are responsible for further evaluating the initial risk assessment and the related impact and assigning the file to the legal counsel. If the Director disagrees with the initial risk assessment and the related impact, he will discuss the matter with the Associate ADAG. Otherwise, the file will be allocated to the specified counsel for work to begin.

All files are given a risk rating of high, medium, or low as it relates to the potential success of the case. Potential client impact for each file is set at minor, medium, or significant. Once the risk and impact levels are confirmed and the file is assigned to a lawyer, the case is entered into iCase, which will automatically assign a numeric risk value based on a scale from one to nine. Management approval to undertake the case must be obtained for all files assigned a risk level of seven, eight, or nine. These files are closely monitored by the TLS – Ottawa Section Director, Deputy Director, and the ADAG's office. Throughout the life cycle of each TLS file, legal counsel are required to monitor the factors impacting the initial risk levels and re-evaluate the

overall risk on a continual basis. In our walkthrough of the iCase system, the audit team verified that the iCase file risk rating and impact assessment process was operating as intended.

From our interviews with TLS – Ottawa Section personnel and CRA senior management and our documentation review, the audit team found that file risk management is well addressed by TLS – Ottawa Section personnel through regularly scheduled meetings with CRA and ongoing informal discussions. The TLS – Ottawa Section continually monitors and compares risk reports with CRA and attends quarterly meetings with CRA to review high-risk files. The audit team was also advised that the Director, TLS – Ottawa Section is responsible for managing the risk associated with each file assigned to the section. However, TLS Portfolio Office guidance or assistance is available if required to mitigate certain risks. CRA also advised us that they are involved in developing any proposed mitigation strategy that TLS decides to implement on a case-by-case basis.

We determined that the TLS – Ottawa Section has an appropriate process in place for identifying, evaluating, and monitoring risk.

6.2 Legal File Management

Management and administration of legal files in the TLS – Ottawa Section is appropriate and managed in accordance with government and Department policies.

The management and administration of client legal files is fundamental to successfully operate 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 central file management system used for casework in the TLS – Ottawa Section is the iCase information system. Departmental standards require that all files dealing with TLS be entered into the iCase system with specific data input fields populated as outlined in the *iCase National Business Standards Manual*. There are common standards required for all portfolios within the Department and additional standards are tailored to each portfolio's specific requirements. TLS Portfolio senior management update and customize standards when they determine a need for standardization improvement and ensure that policy manuals are revised as appropriate. These customized standards help ensure consistency across the TLS Portfolio and allow management to produce comparable reports from the various regional TLS sections across the country.

In accordance with the Department's *iCase National Business Standards Manual*, all new legal files are required to be entered into iCase within one week of receipt of initial documentation.

The iCase Administration group produces periodic iCase reports on files entered in the system. TLS – Ottawa Section senior management review these reports and compare the reports with the files allocated to the section to ensure that all cases are appropriately entered into the system.

Counsel and management advised that files are well managed in iCase and administered appropriately in the Ottawa Section. TLS – Ottawa Section senior management stated that the section consistently meets court-specified filing deadlines.

The audit team performed a high-level walkthrough of iCase with the Associate ADAG. We observed an appropriate audit trail including management sign-offs and corresponding dates to support the sound management of client files. From our interviews with CRA personnel and our walkthrough of iCase, the audit team verified that filing deadlines are respected and legal files appropriately managed.

CRA senior management advised the audit team that CRA is satisfied with TLS – Ottawa Section’s management of legal files. CRA senior managers indicated that TLS legal counsel are passionate about their work and consistently exceed CRA expectations in terms of managing legal files and providing legal services.

In our opinion, the TLS – Ottawa Section has appropriate measures in place to manage and administer legal files and the mechanisms in place are operating appropriately.

6.3 Forecasting of Demand for Legal Services

The TLS – Ottawa Section appropriately forecasts demand for legal work.

Forecasting future workload demand is vital to the effective management of legal operations.

The TLS – Ottawa Section primarily conducts litigation concerning tax decisions made by CRA. As this litigation is reactive, forecasting future demand for TLS legal services is challenging. Through our interviews with both TLS – Ottawa Section and CRA management and our documentation review, we found that the TLS – Ottawa Section attempts to establish future demand for legal service to the extent possible. Regular formal meetings take place between staff in CRA and the TLS – Ottawa Section to discuss current and future tax work (e.g. appeals to recent court decisions, new tax legislature, and current case files). Informal communication also takes place by telephone and email. Ottawa Section senior management confirmed that CRA regularly and consistently keeps the Ottawa Section aware of upcoming files and discusses the file risk and complexity levels of new cases.

In our opinion, the TLS – Ottawa Section appropriately and effectively manages future demand for legal services.

7. OBSERVATIONS – INTERFACES WITH OTHER JUSTICE SECTORS AND CLIENT DEPARTMENTS

7.1 Other Justice Sectors

Interfaces with other Department of Justice sectors are appropriate.

In an organization, strong and effective business relations between functioning units help contribute to an efficient and cohesive operation. Dynamic interfaces allow managers throughout an organization to be kept well informed as to the current events impacting each unit and help facilitate the sharing of ideas, expertise, and best practices.

The TLS – Ottawa Section maintains open communication channels with other portfolios in the Department. Formal channels of communication are used with other portfolios when tax issues impact other areas of the Canadian legal system such as human rights and aboriginal affairs. Draft documents are often sent to other portfolios for comments and direction with respect to recent court precedents and developments related to a given portfolio's area of legal expertise. TLS – Ottawa Section management also use informal channels of communication with other portfolios in the Department, most often to discuss such matters as human resources and funding.

In addition, the TLS – Ottawa Section's membership on various regional and Portfolio level committees provides numerous and sufficient communication mechanisms with other regional and headquarters sectors.

It is our opinion that the TLS – Ottawa Section has appropriate interfaces with other Department of Justice sectors.

7.2 Client Department

Interfaces with the Canada Revenue Agency are appropriate.

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

From our interviews with both TLS – Ottawa Section and CRA personnel, we found that there is ongoing, continuous communication through regular committee meetings. The TLS – Ottawa Section and the CRA have a joint Risk Management Committee that meets quarterly to discuss risk-related items with respect to ongoing and new files. Meetings occur more frequently when workload demands it. A pre-risk meeting is scheduled with CRA to track new cases as they come in. The TLS – Ottawa Section Director, Deputy Director, ADAG, and Associate ADAGs meet bi-weekly with CRA to discuss ongoing case matters and any issues that may exist. There is also a joint Adverse Decision Committee, which includes the Associate ADAGs and the CRA Assistant Commissioner as members. This committee discusses issues and decisions involving appeals for files in the Ottawa Section and other regional TLS sections. Both the ADAG and the Associate ADAG advised the audit team that they believe that these committees are efficient and address all areas of TLS operations, providing sufficient direction and leadership to regional sections including the Ottawa Section.

We found that the number of committees in place, each with its own specific purpose, objectives, and expected outcomes, as well as the TLS – Ottawa Section's membership and direct involvement in these committees increased efficient communications and effective direction in the normal day-to-day course of business.

8. OBSERVATIONS – CLIENT SATISFACTION

8.1 Level of Client Satisfaction with the Services Provided

The Canada Revenue Agency is satisfied with the TLS – Ottawa Section’s level of service.

Client satisfaction levels are a direct result of the quality of service clients receive from a service provider. Open communication, reliability, and positive past experiences are key indicators of high client satisfaction levels.

During our consultation with CRA senior management, we found that TLS – Ottawa Section senior management are in continuous communication with the client regarding current and future workloads. Both TLS – Ottawa Section senior management and CRA client representatives stated that the quality of communications between the two organizations is exceptional with respect to addressing file risk management and legal decisions. We found that TLS – Ottawa Section senior management keep CRA well informed as to the progress of each file, and that any issues are addressed in a timely and efficient manner. There are regular and ongoing meetings throughout the year between CRA and TLS – Ottawa Section where all pertinent matters are discussed. CRA senior management advised the audit team that court-appointed deadlines are always met and that TLS – Ottawa Section legal counsel are extremely efficient.

We reviewed the Department of Justice Canada Client Feedback Survey – Tax Law Services Portfolio Results 2008. We found that the overall satisfaction level of the CRA was 87%. This performance indicator was supported by comments we received from CRA senior management that indicated that TLS service standards are always met and often exceeded. Although the 2008 client survey was specifically in response to the TLS Portfolio service levels, the feedback included service levels across the Portfolio including the TLS – Ottawa Section. Client management also specified that CRA input is always incorporated as the file progresses through the court process and that all CRA files are addressed with due diligence, dedication, and top-quality care.

We found that the CRA is satisfied with the level of service being provided by the TLS – Ottawa Section.

9. RECOMMENDATIONS AND MANAGEMENT RESPONSES

1. **It is recommended that the Director, TLS – Ottawa Section develop a business plan that sets out specific objectives for the TLS – Ottawa Section. (Low Risk).....5**

Agreed. The TLS – Ottawa Section will develop a business plan to formalize its specific objectives in terms of the delivery of quality legal services to the Canada Revenue Agency and the organization’s ability to meet its current and future work. Completion date: By the end of this fiscal year, the TLS – Ottawa Section will simultaneously develop a formal business plan during the TLS Portfolio’s business planning cycle. This plan will be updated annually.

2. **It is recommended that the Director, TLS – Ottawa Section ensure that a formal TLS succession plan is developed and updated on a regular basis. (Medium Risk) .10**

Agreed. The TLS – Ottawa Section will work in close collaboration with the office of the ADAG, TLS Portfolio to develop and implement a national succession plan. Completion date: In conjunction with the regional offices and the TLS – Ottawa Section, the TLS Portfolio will develop a national succession plan by the end of this fiscal year. This plan will be updated on a regular basis.

3. **It is recommended that the Director, TLS – Ottawa Section conduct an organizational review to determine the appropriate number of administrative resources. (Medium Risk)11**

Agreed. The TLS – Ottawa Section has begun an organizational review to determine the appropriate resources required to effectively carry out responsibilities in the areas of finance, human resources, administration, and office management. Completion date: December 31, 2011.

- 4. It is recommended that the Director, TLS – Ottawa Section ensure that training with respect to certain software tools is provided to administrative assistants to assist them with their financial administrative responsibilities. (Low Risk).....14**

Agreed. The Director, TLS – Ottawa Section will ensure administrative assistants are offered training in software tools to assist them with their financial administrative responsibilities including: IFMS (Integrated Financial and Material System); SFT (Salary Forecasting Tool); Excel. Completion date: December 31, 2011.

- 5. It is recommended that the Director, TLS – Ottawa Section, in conjunction with the ADAG, TLS Portfolio, determine appropriate options for improving the Fiscal Path search functionality. (Medium Risk).....22**

Agreed. The TLS – Ottawa Section will work with the office of the ADAG, TLS Portfolio, which is responsible for the Fiscal Path Intranet site. The Portfolio will also work in close collaboration with the Law Practice Management Directorate, as the knowledge management component of Fiscal Path is expected to be integrated into *Justipedia*. Completion date: By the end of the year (2011), at the discretion of the Department's *Justipedia* initiative.

APPENDIX A – AUDIT METHODOLOGY

The criteria for the audit were based on guidance from the Committee of Sponsoring Organizations (COSO) Entity Level Control Framework, the TBS Core Management Control Framework, the TBS Management Accountability Framework, and other TBS guidance on auditing management frameworks.

The methodology consisted of a review of pertinent documentation, systems, practices and procedures; and interviews with appropriate Department of Justice, client personnel and other stakeholders.

In conducting this audit, the audit team:

- interviewed the following:
 - Assistant Deputy Attorney General, TLS Portfolio
 - Associate Assistant Deputy Attorney General, Tax Assessment Matters
 - Associate Assistant Deputy Attorney General, Collections and Civil Matters
 - management and staff, TLS – Ottawa Section
 - other Department of Justice staff
 - CRA management
- reviewed the following documents:
 - business plans
 - client Memorandum of Understanding
 - Terms of Reference
 - management presentations
 - reports and submissions
 - meeting agendas and minutes
 - learning plans
 - performance reviews
 - job descriptions
 - procedure manuals and user guides
 - Department of Justice and Treasury Board Secretariat policies

- client surveys
- client consultations related to business plans
- civil litigation presentation to client
- client training course offerings.

The audit was undertaken in a manner consistent with the Treasury Board *Policy on Internal Audit* and related guidelines and procedures, and with generally accepted auditing standards.

APPENDIX B – 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.

It should be noted that, in applying the above criteria to a recommendation, Internal Audit Branch takes into consideration the nature, scope, and significance of the audit finding(s), the impact of the recommendation on the organization, and the auditors' professional judgment.