



Office of the
Merit Commissioner

Merit Performance Audit

2014/15

UPHOLDING FAIR HIRING IN THE
BC PUBLIC SERVICE



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¹ Overall results were amended April 2016.



Executive Summary

The Office of the Merit Commissioner conducted audits of 243 randomly-selected appointments which were made between April 1, 2014 and March 31, 2015 to determine whether the design and conduct of the hiring processes led to merit-based appointments. The overall approach used to recruit and select applicants was examined, as well as specific aspects of the process categorized as assessment, past work performance, years of continuous service and notification. The audits also determined whether the individuals, when appointed, possessed the qualifications specified as required for the position. The audit results can be extrapolated as reasonably reflective of all appointments of a similar type made throughout the BC Public Service in the 2014/15 fiscal year.

In 60.1 per cent of the competition files audited, the appointments were found to be the result of a merit-based process. In 32.1 per cent of the appointments a “merit with exception” finding resulted, as the processes were found to be merit-based; however, issues which did not have an identifiable negative impact on the outcome were identified. The remaining 7.8 per cent of appointments were not found to be the result of a merit-based process. These findings represent an overall improvement from last fiscal year in the percentage of hiring processes found to be free of issues or flaws.

All individuals whose appointments were selected for audit possessed the education and experience specified as required for the position and met the minimum criteria established for the other factors assessed during the process.

Most of the identified issues and flaws found were related to assessment, documentation or notification. However, issues and flaws found related to the process and assessment categories presented the greatest risks to merit-based hiring. Nearly 90 per cent (17 out of 19 appointments) of the most serious type of finding resulted from flaws found in these areas.

Of particular concern with respect to process were appointments made without a true competition. In these cases, an overall absence of merit was found where candidates were directly appointed without Agency Head approval or the area of competition was restricted to the extent that the outcome was a foregone conclusion. Problems with assessment were identified most frequently at the short-listing stage, and there was also an observed decline in the use of meaningful and sufficient assessment standards that would provide a common basis for the evaluation of candidates. Concerns with notification were identified when employee applicants, even those eliminated from consideration at an early stage of the selection process, were not informed of the results of a competition which could have hindered their statutory rights related to staffing recourse. Lastly, as the observed increase in problems related to the assessment of years of continuous service was concurrent with a change in the formula used for this calculation, issues of this type will be monitored going forward.

The report includes five recommendations made to deputy ministers and organization heads.



Overview

Section 8 of the *Public Service Act* (the *Act*) states that all appointments to and from within the public service must be based on the principle of merit. Section 5.1 requires the Merit Commissioner to monitor the application of merit by conducting random audits of these appointments. The overall results of these audits are reported to the Legislative Assembly and publicly reported through the Office of the Merit Commissioner (the Office) website.

The merit principle is commonly accepted to mean that appointments are made on the basis of an assessment of competence and ability to do the job, and are non-partisan.

Summary merit performance audit results and detailed audit findings are provided to the deputy ministers or organization heads who have overall responsibility for the ministries, boards, commissions, agencies or other organizations where the appointments were made. They are expected to take the necessary action to improve hiring practices within their organizations and to share these findings with the hiring managers, who have been delegated the responsibility to decide how best to recruit, assess and select applicants for appointments. The audits provide a way of holding managers accountable for results, of recognizing performance, and of identifying problems.

Audit results are also reported to the Deputy Minister of the BC Public Service Agency (Agency Head) who is responsible for staffing policy, support, and training in the BC Public Service as well as establishing the accountability framework for human resource management in conjunction with the Deputy Ministers' Council.

Audit Criteria and Process

Section 5.1(1)(a) of the *Act* specifies that the Merit Commissioner is responsible for conducting random audits of appointments to assess whether:

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

Recruitment and Selection Process

In accordance with an established audit program, the Office's auditors determine whether the design and conduct of a hiring process led to a merit-based appointment. As part of this determination, they consider the application of relevant legislation, policy and provisions of collective agreements, such as



whether the factors of merit were appropriately assessed and the hiring decisions properly communicated to employee applicants. The overall approach (i.e., process) employed to recruit and select applicants is examined, as well as specific aspects of the process categorized as assessment (e.g., short-listing, testing and interviewing), past work performance, years of continuous service, and notification. In addition, consideration is given to whether there was sufficient supporting documentation (i.e., evidence) of the actions taken and decisions made. The detailed audit program can be viewed at www.meritcomm.bc.ca.

Section 8(2) of the *Act* sets out the matters to be considered in determining merit, which must include the applicant's education, skills, knowledge, experience, past work performance and years of continuous service.

Each recruitment and selection process is also assessed to determine whether the basic principles of fairness, transparency, relevancy and reasonableness which are integral to a merit-based process have been met.

With respect to a recruitment and selection process, one of the following findings is determined through the audit.

- **Merit** – The appointment was the result of a process designed to assess the factors of merit based on the duties to be performed, the process was applied in an objective and transparent manner, and assessment decisions were fair and reasonable.
- **Merit With Exception (MWE)** – Overall, the appointment was the result of a merit-based process; however, an issue was identified with the design or application of the process which did not have an identifiable negative impact on the outcome.
- **Merit Not Applied (MNA)** – The appointment was not the result of a merit-based process, as a critical flaw or error was found in the design or application of the process which resulted in an identifiable negative impact on the outcome.
- **Did Not Demonstrate (DND)** – There was insufficient evidence provided to demonstrate that the design or application of the process was based on merit.

Individual Appointed

Auditors also determine, in accordance with an established audit program and based on the evidence provided, whether the individual appointed possessed the education and experience specified as required for the position, and met the minimum criteria established for the other factors assessed during the process.



With respect to the individual whose appointment is being audited, one of the following findings is determined through the audit.

- **Qualified** – The individual, when appointed, possessed the qualifications specified as required for the position.
- **Not Qualified** – The individual, when appointed, did not possess the qualifications specified as required for the position.
- **Did Not Demonstrate** – There was insufficient evidence provided to demonstrate that the individual, when appointed, possessed the qualifications specified as required for the position.

Each audit results in two determinations: whether the recruitment and selection process was based on merit and whether the individual appointed was qualified.

Scope

Any organization to which section 8 of the *Public Service Act* applies may be audited by the Office of the Merit Commissioner. A list of organizations subject to this oversight is included in Appendix A.

Appointment Types

The merit performance audit focuses on those appointments that form the regular, long-term workforce of the BC Public Service. Specifically, these appointments are permanent appointments and temporary appointments that exceed seven months, and which are required by section 8(1)(b) of the *Act* to be the result of a process that assesses eligible applicants' knowledge, skills and abilities. Auditing these types of appointments, where a candidate's merit is assessed and ranked relative to that of other candidates (i.e., through a competition), reveals the most information about how the principle of merit is being applied.

Direct appointments under section 10(b) of the *Act* are also included in the 2014/15 audit, to ensure that they are based on merit and that organizations are appropriately seeking and receiving the required approval of the Agency Head.

Time Frame

The 2014/15 Merit Performance Audit focused on appointments made from April 1, 2014 through March 31, 2015.



Appointment and Sample Details

In total, a population of 4,045 permanent appointments, temporary appointments exceeding seven months, and direct appointments were reported for the time frame associated with the 2014/15 Merit Performance Audit. The appointment population was derived from data from the Corporate Human Resource Information and Payroll System (CHIPS) provided by the BC Public Service Agency and from the Liquor Distribution Branch's records of appointments, which are maintained in a separate database. From this population, BC Stats drew random samples of appointments on four occasions for the broader public service and two occasions for the Liquor Distribution Branch.

Samples pulled from the appointment population were stratified to ensure proportional representation in the following categories:

- organization size (up to 1,000 employees, and more than 1,000 employees); and
- appointment type (permanent appointment, temporary appointment exceeding seven months, and direct appointment).

In order to be able to generalize the results of the audit to the total population of appointments with a 95% confidence level and margin of error of +/- five per cent, a sampling rate of six per cent was used. This sampling rate resulted in a total audit sample of 252 appointments, nine of which were subsequently determined to be outside the scope of the audit, largely due to coding errors. The number of out-of-scope appointments represents four per cent of total appointments sampled, which shows continuing improvement in the accuracy of this CHIPS data since the 2013/14 and 2012 Merit Performance Audits when seven per cent and 11 per cent of appointments respectively were found to be out-of-scope.

Overall Results

The overall results for the 2014/15 Merit Performance Audit are presented in accordance with the two determinations made in each audit: one concerning the recruitment and selection process and the other concerning the qualifications of the individual whose appointment was audited.

Recruitment and Selection Process

Table 1 shows the overall audit results related to the recruitment and selection process. The use of a statistically valid sample means that these results can be extrapolated from the audited appointments to the larger total population of the same types of appointments (i.e., permanent appointments, temporary appointments of more than seven months, and direct appointments) made from April 1, 2014 through March 31, 2015. The results indicate the strengths and weaknesses in merit-based hiring in the BC Public Service during that time period.



Table 1 - Overall Results² – Recruitment and Selection Process

Overall Findings	Appointments Audited		Extrapolated Results - Estimated Population	
Merit applied	146	60.1%	2306	58.9%
Merit with exception	78	32.1%	1280	32.7%
Merit not applied	19	7.8%	329	8.4%
Did not demonstrate	-	-	-	-
Total	243	100%	3915	100%

Note:

Weighted extrapolations were provided by BC Stats, as well as the margins of error, both of which are included in the BC Stats report posted separately on the Office of the Merit Commissioner website.

The audit found that 60.1 per cent of appointments were the result of a merit-based recruitment and selection process, with no issues or flaws. An additional 32.1 per cent of appointments were in the “merit with exception” category: this determination is indicative of an issue or issues with the recruitment and selection process, ranging from minor to serious, that do not have a known negative impact on the outcome. The “merit not applied” findings show there were flaws which impacted the outcome in 7.8 per cent of the audited appointments. Based on the extrapolations provided by BC Stats, an estimated 1,280 appointments made throughout the BC Public Service in 2014/15 contained issues which were exceptions to merit-based hiring and 2,306 did not. A total of 329 appointments made throughout the BC Public Service in 2014/15 were estimated to be the result of flawed processes (i.e. they were not merit-based).²

Individual Appointed

Based on the available evidence, the audit found that all individuals, when appointed, possessed the qualifications specified as required for the respective positions. In addition, there was no evidence that any of the appointments audited were the result of patronage.

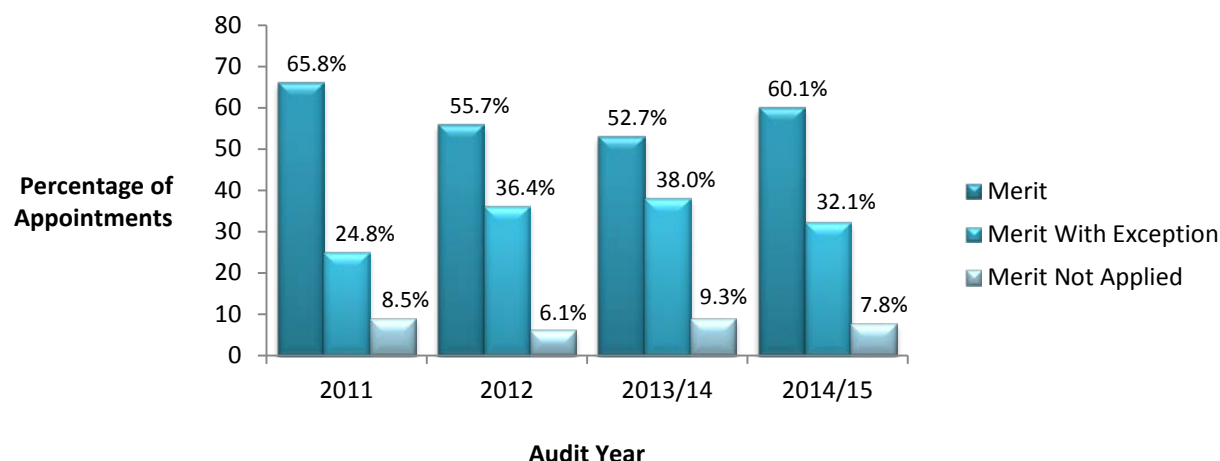
² Note: Revisions to this paragraph and Table 1 were necessitated by errors in the extrapolated numbers provided by BC Stats in their report, published separately on the Office of the Merit Commissioner website, which has also been revised.



Year-to-Year Comparison of Overall Results

Audit findings related to merit in recruitment and selection processes continue to change over time. Chart 1 illustrates the frequency of findings since 2011.

Chart 1 - Frequency of Findings – Recruitment and Selection Process



Note:

“Did Not Demonstrate” findings (previously “Unable to Determine”) have consistently been less than 2 per cent each year and are not represented in this chart.

The number of “merit not applied” findings has fluctuated slightly since 2011. In the 2013/14 audit, findings of this nature reached a high of 9.3 per cent. In 2014/15 they decreased to 7.8 per cent, which is about the average level observed over the last four audit cycles.

“Merit with exception” findings related to the design or conduct of the hiring process had been increasing up to and including 2013/14, reaching a high of 38 per cent, and decreased in the 2014/15 audit to 32.1 per cent. Correspondingly, there has been an increase in the percentage of “merit” findings, from 52.7 per cent in 2013/14 to 60.1 per cent in 2014/15, representing a greater number of appointments that resulted from a selection process with no identified issues or flaws.

Following a steady decline over the last few years, the percentage of merit-based hiring processes with no flaws or issues showed improvement in the 2014/15 audit.

Organizations continue to provide sufficient documentation to allow auditors to make audit findings – of note, there were no “did not demonstrate” findings in either of the last two audit cycles (2013/14 and 2014/15). More information related to the recruitment and selection process findings and trends is contained in the Analysis and Observations section of this report.



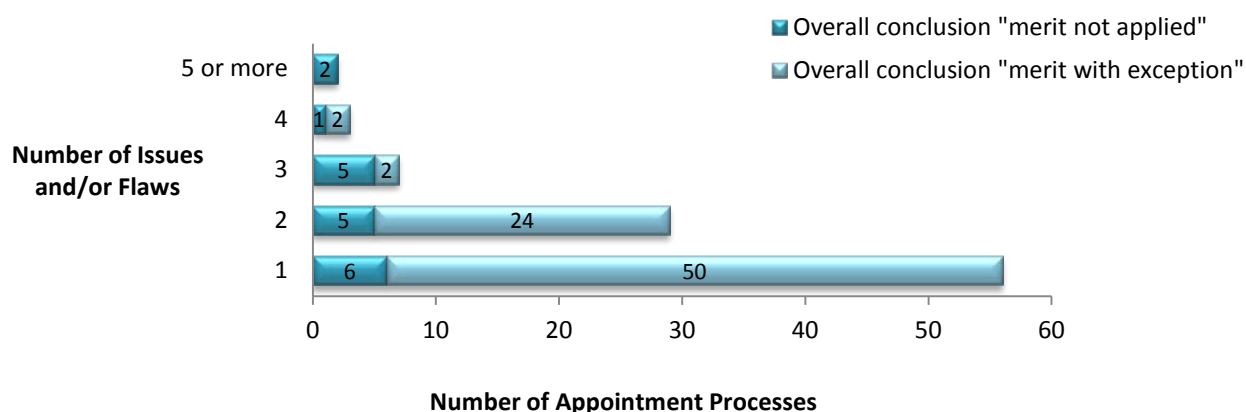
In contrast to the changing year-to-year audit results for recruitment and selection processes, the audit results related to the qualifications of individuals appointed has remained stable and encouraging. In the 2014/15 Merit Performance Audit, all individuals, when appointed, were found to possess the qualifications specified as required for the position.

Analysis and Observations

Issues or flaws with the design and application of the recruitment and selection process identified through audit are grouped into the following categories: process, assessment, past work performance, years of continuous service, notification, and documentation. Within each category, any concerns or errors found to have had an identifiable negative impact on the outcome of the competition are described as flaws and result in a “merit not applied” finding. Any concerns or errors which did not have an identifiable negative impact on the outcome are described as issues and result in a “merit with exception” finding.

While each audited appointment process results in one overall finding of “merit”, “merit with exception” or “merit not applied”, there may be more than one issue or flaw identified in each case. Chart 2 illustrates that of the 19 audited appointments where there was an overall finding of “merit not applied”, six had a single serious flaw and the other 13 had multiple flaws and issues. Of the 78 audited appointments where there was an overall finding of “merit with exception”, 50 had issues related to a single category, and the other 28 had issues related to multiple categories.

Chart 2 – Number of Issues and/or Flaws per Appointment Process



Note:

Where an audit identifies both issues (a “merit with exception” finding) and flaws (a “merit not applied” finding) in an appointment process, the overall conclusion will be “merit not applied”.



In total there were 159 issues and flaws identified in the 2014/15 audited appointments. Table 2 provides a breakdown of the number of issues versus the number of flaws and groups these into categories by impact.

Table 2 – Issues and Flaws Identified by Category		
Category	Impact	
	Issue (Merit with Exception)	Flaw (Merit Not Applied)
Process	5	13
Assessment	44	4
Past Work Performance	15	3
Years of Continuous Service	16	2
Notification	22	-
Documentation/Evidence	35	-
Total (159)	137	22

In the 2014/15 audit, the highest number of identified issues and flaws found were in the category of assessment. The increasing number of problematic assessment findings was identified as a significant concern in both the 2012 and 2013/14 Merit Performance Audits. In 2012, the number of appointments found to have assessment issues or flaws had increased by six percentage points to 14.0 per cent, and in 2013/14, there was a further increase to 22.0 per cent. Although in 2014/15 the incidence of assessment issues decreased slightly to 19.8 per cent, it continues to reflect a high rate of issues and flaws relative to other categories. Chart 3, at the end of this section, shows the frequency over time with which issues and flaws have occurred.

The second most frequently identified issue was insufficient documentation. While the 14.4 per cent of appointments in 2014/15 with a “merit with exception” finding due to poor documentation represents an increase from 12.7 per cent in 2013/14, it is still less than the high of 22.4 per cent found in 2012.

Issuing letters of notification to applicants has become a largely automated process with most offer, regret and confirmation letters generated electronically by the BC Public Service Agency. The 2013/14 audit results showed improvement in the provision of final notification to all unsuccessful employee applicants and this improvement continued in 2014/15 as issues with notification decreased from 10.7 per cent to 9.1 per cent of appointments.

An employee applicant’s years of continuous service in the BC Public Service is one of the factors that must be considered in appointment processes; however, a specific assessment of this factor is only a requirement for appointments to positions covered by the collective agreement with the BC

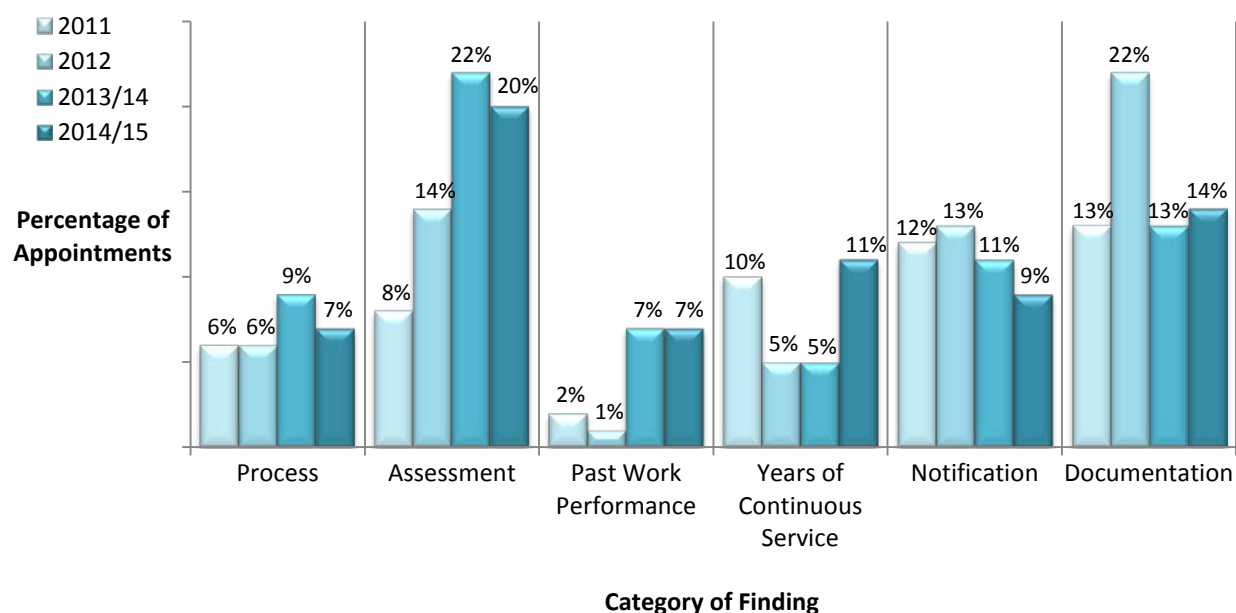


Government and Service Employees' Union (BCGEU). An examination of the assessment of years of continuous service with respect to BCGEU positions only, indicates that the percentage of issues and flaws has doubled from 4.6 and 4.8 per cent in the 2012 and 2013/14 audits, to 11.3 per cent in 2014/15. It is noted that the most recent BCGEU collective agreement, which came into effect at the start of the 2014/15 audit cycle, introduced a new formula for the calculation of years of continuous service.

Problems (i.e., issues or flaws) with the conduct of the overall hiring process were found in 5.9 per cent of audited appointments in 2011, 6.1 per cent in 2012, 8.7 per cent in 2013/14, and 7.4 per cent in 2014/15. While process concerns have been found at a relatively low and steady rate compared to concerns in other categories, those that are identified tend to represent a greater risk to merit-based hiring and result in more “merit not applied” findings than in any other category.

Issues identified with the assessment of past work performance have historically been one of the least problematic categories. However, there was an increase in the proportion of appointments with identified past work performance flaws or issues, from 0.8 per cent in 2012 to 7.3 per cent in 2013/14, and this higher rate has continued in 2014/15, at 7.4 per cent of audited appointments.

Chart 3 – Frequency of Identified Hiring Issues and Flaws



Notes:

Percentages are rounded.

Years of Continuous Service percentages in this chart are based on the number of BCGEU appointments audited (i.e., 159 in 2014/15).



The following sections of this report examine in more detail the types of issues and flaws identified in the 2014/15 Merit Performance Audit. The categories of findings are presented in order of a typical competitive process, rather than by the frequency of problems identified.

Process

Section 8(1) of the *Act* requires that appointments to and from within the public service be based on the principle of merit and be the result of a process designed to assess the knowledge, skills and abilities of eligible applicants.

The merit performance audit determines whether the recruitment and selection process included a reasonable and transparent approach to attracting an appropriate number of applicants with the necessary skill set, given the requirements of the position. The audit also examines whether applicants were assessed for merit, resulting in the appointment of the candidate determined to be best qualified in the assessment process.

One exception permitted to the general statutory requirement for appointments to be the result of recruitment and selection processes is the direct appointment of an individual into a higher-level position without consideration of other individuals when there are unusual or exceptional circumstances. In such a case, after assessing an individual's qualifications relative to the job requirements, an organization may outline to the Agency Head the circumstances which are considered to warrant a direct appointment. The Agency Head may then exercise sole authority to approve such an appointment under section 10(b)(iii) of the *Act*.

Results

The 2014/15 Merit Performance Audit identified 18 issues or flaws with the design or conduct of the hiring process: 13 of which resulted in findings of “merit not applied” and five of which resulted in findings of “merit with exception”. Through an examination of these audits, a number of common problems were identified.

**In 2014/15, more than half of the overall “merit not applied”
audit findings were due to process flaws.**

Lack of Process

Approximately half of the “merit not applied” findings in this category were the result of appointments made without a process designed to evaluate applicants. In several cases, there was no posting or circulated notice and the only individual identified for consideration was appointed to the position. In several other cases, what process was in place lacked any selection criteria and standardized assessment method by which to objectively and consistently assess applicants.



Restricted Processes

Approximately half of the appointments audited in 2014/15 were the result of competitions which were restricted to in-service applicants. As well, a number of these in-service competitions were further restricted to the organization, geographic area, organizational unit within a ministry, or some other limited group of employees.

Several audited appointments warranted a “merit not applied” finding due to overly restricted areas of competition. In two cases, the restriction was so limited that the outcome was predetermined as the number of applicants eligible to apply was the same as the number of available positions. In several other cases, while the posting stated that only applicants within a certain geographic area would be considered, the restriction was inconsistently applied resulting in one or more individuals from outside the stated location being successful. In another case, the geographic restriction was applied only to BC Public Service applicants and not to external applicants from outside the geographic region. In that competition, several of these external applicants were given consideration, and one was successful.

Advertising a restriction to the area of competition and applying it inconsistently does not constitute a fair process.

Previous Processes

With the BC Public Service seeking more efficient and less costly hiring methods, the increased use of one process for multiple appointments has been observed. In 2014/15 there were two cases where the use of a previous hiring process to make a subsequent appointment resulted in a finding of “merit with exception”. One hiring process is described in Case 1. In the other case, a permanent appointment was made using the results of a hiring process conducted nearly three years previously. While the initial posting advertised that the process might be used to make future appointments, circumstances may have changed over the three year passage of time (e.g., additional or different applicants may have been interested in being considered for the opportunity).

Case 1 – Poor practice: inappropriate use of eligibility list

A posting for an excluded position indicated that an eligibility list might be established and applications might be considered for other similar current and future vacancies, including permanent and/or temporary positions in various locations. An appointment selected for audit, made from the eligibility list, was to a bargaining unit position and had a notably different set of duties and position requirements. Had this position been posted, it would likely have attracted a different pool of applicants.



Direct Appointments

These types of appointments continue to account for less than two per cent of the appointments audited annually. Of the five direct appointments audited in 2014/15, all were found to be in keeping with the legislative requirements in that each organization sought and received authorization from the Agency Head prior to making the appointment.

Assessment

Managers are accountable for their hiring decisions and responsible for determining which qualifications are required to perform the job, and which tools and methods are the most appropriate to use in assessing applicants against those criteria. Accurately describing and making the identified requirements available to potential applicants is critical to a transparent merit-based process as it helps them determine whether they are qualified and eligible to apply, and also allows for an objective and impartial staffing process. As well, such transparency gives other staff and the general public confidence that the individual who is eventually hired is qualified for the position. The audit determines whether the appointment was the result of a merit-based staffing process in which applicants were objectively and consistently assessed relative to the posted criteria, and whether all the factors of merit were appropriately considered.

Results

Of the 48 assessment-related issues and flaws identified, four resulted in findings of “merit not applied” and 44 resulted in findings of “merit with exception.” The following sections provide more details related to the areas of assessment where problems were observed.

Short-listing

The majority of assessment issues which resulted in a finding of “merit with exception” (29 of the 44 identified) occurred at the short-listing stage. At this point in the competition process, applications or resumes are generally assessed against the advertised minimum education and experience requirements of the position to determine which individuals are qualified to move forward in the selection process.

Almost all the audited appointment processes involved some form of short-listing assessment; however, in three competitions with multiple applicants there was no short-listing process. In these cases, all applicants advanced through the hiring process with no assessment as to whether they met the required education and experience, which are two of the factors of merit. In the other 26 cases, issues involving the conduct of short-listing compromised the fairness, objectivity and relevance of the processes to varying degrees. In over half of these cases, the posted education and experience requirements were relaxed, which allowed applicants who did not meet the stated minimum criteria to advance. While the



lesser requirements were assessed consistently for those who had applied, this approach disadvantaged any individuals who may have applied had they known that the posted criteria would not be required.

Case 2 – Poor practice: lessening required qualifications

The posting indicated a bachelor's degree with seven years of experience was required for the position. Alternatively, candidates could have had a master's degree with five years of experience. The audit found that two applicants who did not meet these requirements were included in the competition, as a lesser requirement for a certificate or diploma and extensive related experience was applied. Although the audit found these lesser requirements to be reasonable and consistently applied to all candidates, an issue was identified as other individuals who may have been interested in the position but considered themselves not qualified given the standards as posted, may not have applied.

There were also a number of appointments where applicants' education and experience qualifications were inconsistently evaluated at the short-listing stage. In these cases, one or more applicants who did not appear to meet the posted requirements were short-listed, while others with similar qualifications were not; or, one or more applicants who appeared to meet the posted requirements were not considered further while others with similar qualifications were advanced. There were also several competitions where the basis upon which candidates were short-listed could not be determined.

Assessment Methods

Once candidates have been short-listed, hiring managers use a variety of methods to further assess them, and it is generally accepted that using multiple assessment methods adds credibility and validity to the selection process. In nearly two-thirds of appointments audited in 2014/15, one or more methods such as written exercises, role plays or oral presentations were used to assess candidates in addition to interviews. In most of the remaining appointments, an interview was the sole method of assessing short-listed candidates, other than the mandatory past work performance checks.

Case 3 – Good practice: clear assessment standards

The panel developed a marking guide which indicated the main elements expected in the interview responses. For example, a question which assessed how candidates handled conflict with a teammate awarded points in five different areas such as communicating concerns and appropriate referral to a supervisor. The marking guide provided sufficient detail to enable an understanding of how marks should be determined without being overly prescriptive. The panel also used a separate marking guide to assess communication skill which listed out the key qualities expected such as clarity and conciseness. Written observations for each candidate were noted on this guide and substantiated the assigned mark.



Of the assessment issues or flaws identified, 19 were associated with a lack of established assessment standards, or the inconsistent or subjective assessment of candidates. In one of these cases, the assessment process in its entirety was so minimal the audit determined a finding of “merit not applied” was warranted. Many other cases resulted in “merit with exception” findings due to the lack of sufficient standards by which to assess candidates, such as pass scores, target competency levels, response guides or marking keys. It was also evident in a few cases that while standards had been set, these requirements were not applied consistently to the marking of candidates.

Case 4 – Poor practice: insufficient assessment standards

Candidates were required to draft a letter, to assess their knowledge and communication skills. The three people on the panel marked this written assignment individually without a scoring guide to indicate how marks were to be assigned. The marks given by each panel member were then averaged to determine if the candidate passed or failed. One candidate failed. The audit found it was unclear whether all panel members were using the same criteria to assess candidate responses. Better practice would be to assign marks through consensus which would allow the panel to understand each other’s scoring and ensure decisions were substantiated. A standardized set of criteria which were job-related and reasonable would have improved the quality and transparency of this process as well as the consistency of marking by panel members.

In one case, a “merit not applied” finding resulted from a subjective assessment process as the panel evaluated each candidate’s personality to determine their final ranking and subsequent appointment order. Other examples involving subjective assessments include the consideration of candidate “fit” and appearance as part of the interview with no objective standards for assessment, and the use of undefined criteria to break the tied scores of candidates.

Case 5 – Good practice: objective tie breaker

In this competition, the panel pre-determined how they would break a tie if one occurred. The file documentation indicated that where candidates had the same score at the end of the process, the mark achieved on the written test would be used to break the tie. The panel further noted that should this approach still result in a tied score, they would use the results from a practical test to break the tie and determine final rank order. Both of the proposed tie-breaking approaches involved the use of merit-based criteria.

Administrative Errors

As candidates' scores determine relative merit and standing in a competition, it is important that marks are accurately determined and recorded. Errors which occurred during the transcription of candidate



point scores onto a rating guide, and which had serious consequences, accounted for the remaining two “merit not applied” findings in this category. In one case, the error resulted in candidates being placed on the eligibility list and later appointed in the incorrect order, and in the other case, candidates were incorrectly eliminated from consideration while other lower-scoring candidates advanced and were subsequently appointed. Several other audits identified administrative errors, such as incorrectly advancing candidates who had not passed a test which, while having an impact on the integrity of the process, had no direct impact on the outcome. These types of cases resulted in “merit with exception” findings. There were many other minor errors noted in the appointments audited in 2014/15. Most of these consisted of small mistakes in tabulating or transcribing candidate scores.

Past Work Performance

Assessing an individual’s past work performance is an essential component of an informed and quality hiring decision. Conducted well, it may be used to validate any part of the assessment process that has relied on information self-reported by candidates. It can also provide additional evidence that candidates meet the knowledge, skills, abilities and competencies required for the position. The proper documentation of the assessment of past work performance ensures this aspect of the selection process is transparent and credible.

The *Act* specifies past work performance as one of six factors that must be considered when determining merit. In addition, BC Public Service hiring policy specifically requires an assessment of past work performance which includes at least one employment reference from a current or previous supervisor or equivalent. The merit performance audit looks for documented evidence to confirm that this factor of merit was properly considered, as required by legislation and policy.

Results

The 2014/15 Merit Performance Audit identified 18 audited appointments which had an issue or flaw with the assessment of past work performance: three resulted in “merit not applied” findings, and 15 resulted in “merit with exception” findings.

In two audited appointments, past work performance was not assessed for the individuals appointed, resulting in a finding of “merit not applied”. In two other cases, although formal supervisory references checks were not conducted, it was reasonably determined that the hiring managers considered their own supervisory knowledge of the past work performance of the individuals appointed, which resulted in a finding of “merit with exception”.

In approximately half of the appointments where an issue or flaw was identified with the assessment of past work performance, either the approach taken to check references was inconsistent across candidates in the competition, or responses were not marked reasonably or consistently. For example,



one competition had a different approach to past work performance assessments for in-service candidates than for out-of-service candidates. In another situation described in Case 6, a candidate was not appointed as a direct result of the approach taken to assess their past work performance. As the competition outcome was affected, a finding of “merit not applied” resulted.

Case 6 – Poor practice: unreasonable assessment of past work performance

The past work performance assessments were conducted by a number of panel members, without having a common established means by which to assess the references received. One panel member chose to assign a score of zero when a referee was not able to comment on a candidate’s performance in a specific area. The candidate failed the past work performance assessment on that basis, and was eliminated from consideration.

In three cases, employee candidates were placed on eligibility lists without an assessment of past work performance, although it was noted that any future appointments would be subject to satisfactory completion of reference checks. In these cases, the employee applicants were then notified of the outcome of the competition, even though this factor of merit had not yet been assessed, so the hiring process was therefore not final. Without knowing their final status in the competition, the employee candidates’ rights to request a review were obstructed. Employee candidates should be fully assessed prior to final decisions concerning the competition outcome to ensure accurate final notification can be provided.

There were also competitions where the panel used point scores assigned by the referee as the basis for the assessment of candidates’ past work performance, rather than reviewing information provided and assigning the scores themselves. In these cases, the audit was able to confirm the outcome of the selection process was not affected; however, generally such an approach does not provide for the objective and consistent assessment of past work performance for all candidates.

Years of Continuous Service

When determining merit, another factor that must be considered under the *Act* is an employee’s years of continuous service with the BC Public Service.

For appointments to positions covered by the collective agreement with the BC Government and Service Employees’ Union (BCGEU), this factor was assessed in accordance with the agreed upon “relatively equal” calculation in the 16th Master Agreement until March 31, 2014. As of April 1, 2014, the 17th Master Agreement replaced the “relatively equal” provision with a new formula which defined a percentage of total competition points to be added to employee candidates’ scores, depending on their years of continuous service. The transition to this new formula resulted in relatively equal being the



applicable provision for a few appointments where the assessments had occurred prior to April 1, 2014. However, the new formula was in effect for the majority of appointments audited in 2014/15. These calculations are typically documented on a rating guide summary of the selection process or on a separate worksheet completed by the BC Public Service Agency, and provide important evidence to support the final order in which candidates are ranked and appointed.

For excluded positions and for positions covered by the Professional Employees Association (PEA) or nurses' collective agreements, years of continuous service is a factor of merit which must be considered under the *Act*; however, there is no requirement that it be specifically assessed. In hiring and selection processes for such positions, at a minimum, the file should be documented to indicate that this factor was considered, the resultant decision made as to whether or not it would be assessed and if assessed, the weighting calculation and results of the assessment.

The proper consideration of this factor is important to merit-based hiring, as flaws or errors in the calculation of years of continuous service can impact a candidate's rank, including placement order on an eligibility list and, therefore, whether a candidate is appointed.

Results

The audit found that the years of continuous service calculation was either not performed or evaluated incorrectly in 18 of the 159 BCGEU appointments audited. In two of these cases incorrect appointments occurred as a result, which led to findings of "merit not applied". In the other 16 cases, where the calculation was incorrect but the audit determined the correct calculation of years of continuous service would not have altered the final ranking of candidates, the findings were "merit with exception".

The majority of problems identified with the assessment of years of continuous service arose from the use of incorrect information to complete the calculation - whether it was a candidate's number of years of service, their score, or the overall competition points. Other concerns included the application of the relatively equal provision when it was no longer in effect and the failure to consider years of continuous service at all.

Notification

Notification to unsuccessful employee applicants of the final results of a competition is an important element of a merit-based hiring process. Although best practice is to keep all applicants apprised of their status, at a minimum managers must notify applicants who are employees about the final outcome of the hiring process. To ensure the requirements of the *Act* can be meaningfully fulfilled, such notice is necessary in order that employees may seek feedback and challenge the merit of an appointment through the staffing review process, should they choose to do so. The absence of final and accurate



notification that another applicant is to be appointed hinders unsuccessful employees' ability to exercise their statutory recourse rights.

An unsuccessful employee applicant's right to request a review of a staffing decision relies on the correct provision of final notification of the competition outcome.

Accounting for the outcome of a selection process is an essential element of ensuring transparency in the conduct of public service hiring. Failure to provide appropriate notification may undermine confidence in the merit of the appointment due to the lack of transparency and may lead to the perception that managers are not accountable for their hiring decisions. Providing appropriate notification gives managers an opportunity to demonstrate accountability for their decisions as well as an opportunity to build internal capacity by providing employees with feedback which may improve their performance and encourage development.

Results

In total, in 2014/15 there were 22 findings related to notification. All identified issues resulted in findings of "merit with exception" rather than "merit not applied", as notification has no direct impact on the outcome of a competition.

In 20 of the findings, not all of the employee applicants received final notification of the appointment decision. In 13 of these cases, those who were not issued notification letters were employee applicants who had not been short-listed, or had not passed an early stage of assessment such as a written test.

In a further seven cases, those not issued notification letters were employee applicants who were deemed ineligible at the start of the hiring process. Typically, these cases involved restricted competitions where applicants' eligibility was determined by their geographic location. There were fewer issues of this type than in the previous two merit performance audits.

Case 7 – Poor practice: no final notification to employee applicants

An in-service posting was geographically restricted to the Victoria area and attracted a number of applicants. One employee applicant who did not meet the geographic restriction was removed from consideration. Another employee applicant who did not meet the short-listing criteria was also eliminated. Neither received notification of the final results of the competition.

With respect to the other two appointments to receive a "merit with exception" finding for notification, the information provided to employees did not accurately reflect their placement on an eligibility list for



future permanent appointments which could impact expectations concerning anticipated appointments and confidence in the hiring process.

In addition to the above issues, the audit noted a number of appointment processes where notification practices could be improved to increase transparency. Most commonly, information was missing such as the fact that there were multiple initial appointments or an eligibility list was established, or the successful employee candidate's name or classification was missing, which is a collective agreement requirement for appointments to BCGEU positions.

Documentation

Managers are required to document hiring activities as thoroughly as they are required to document other business decisions, especially those with financial implications. It must be possible to demonstrate that throughout a recruitment and selection process the merit principle was upheld and actions were in keeping with the elements of transparency, consistency, relevance, fairness and reasonableness. Managers are also accountable for providing feedback to employees who participate in a competitive process and proper documentation enables them to provide such feedback in a consistent and thorough manner. An absence of documentation supporting the assessment of an applicant may impact the perception of the fairness of a hiring process. Further, as eligibility lists may be used by different hiring managers to make appointments within their own organizational units, a well-documented account of a hiring decision increases the confidence of these other managers that the initial competition was merit-based, valid and, therefore, reliable as a basis for other appointments.

Results

There were 35 issues identified involving the documentation related to hiring processes which resulted in "merit with exception" findings.

The initial documentation provided to the Office was well-organized and nearly complete for the majority of the submitted staffing files. As in past audits, at times it was necessary to contact hiring managers and the BC Public Service Agency for evidence not initially submitted, such as records of final short-listing decisions, interview notes, information related to reference checks, and marking details; all of which are expected to be included in a complete staffing file. In some cases, the missing information was subsequently provided and accepted for audit. In other cases, when documentation was not available but hiring managers were able to provide verbal evidence, there was a finding of "merit with exception" due to the lack of documentation.

Similar to previous years, approximately half of the documentation issues identified in the 2014/15 Merit Performance Audit were related to inadequate information to support short-listing decisions - the basis upon which each candidate is considered qualified or not qualified to move forward in a selection



process. In these cases the basis for short-listing decisions was not evident. The second most prevalent documentation issue, which was identified in nine cases, related to interview assessments, including missing or incomplete panel notes, missing or conflicting evidence of pass requirements, and missing evidence of a scoring approach to substantiate decisions about who was advanced in the process. Similarly, in five cases there was found to be a lack of documentation related to how the final rank order of candidates was established where two or more candidates' final scores were tied. In each of these cases, it was necessary to obtain verbal evidence to substantiate or confirm that a fair and consistent short-listing assessment process had occurred, to provide a rationale for the panel's approach, or to establish that the panel used merit-based criteria as a means of breaking the ties in order to arrive at the final rank order.

The documentation of the assessment of past work performance has improved since the 2013/14 audit. Generally, recorded details provided evidence that the manager had considered this factor of merit, that appropriate referees were contacted, and that the successful candidate possessed the qualifications required. There were only a few documentation issues of this nature that led to a finding of "merit with exception" where verbal evidence was required to substantiate undocumented reference checks. However, there were still many instances where minor documentation concerns related to reference checks were noted as areas for improvement. Often it was necessary to obtain verbal confirmation that past work performance had been considered in cases where the candidate's supervisor was on the panel. In other cases, the reference check questions had not been documented, or some reference check assessments were missing.

Case 8 – Good practice: well-documented process

The posting for this competition attracted 60 applicants. The panel required applicants to provide resumes and self-assessment questionnaires. The short-listed candidates were required to complete a written exercise and attend an interview and the panel conducted an assessment of past work performance. The assessment process, decisions, and supporting rationales were clearly recorded using a tracking spreadsheet to identify candidates' status at each stage during the process. The supporting documentation was comprehensive, including correspondence to candidates to confirm upcoming assessments and evidence to support the provision of a five-day review period. No follow-up requests for documentation were required to either the hiring manager or the BC Public Service Agency.

The remaining third of the documentation issues identified in the 2014/15 audit related to other areas of assessment where basic evidence was missing, such as evidence to support the years of continuous service calculation, or where the audit identified pieces of missing or inconsistent information throughout various stages of the competition process.



Case 9 – Poor practice: incomplete documentation of process

In this competition, short-listed candidates were assessed through a behavioural interview as well as other unstructured interviews. A consensus decision was made about which candidate was determined to be successful; however, documentation was not retained for these assessments, and there was no supporting evidence to confirm short-listing and interview decisions, or how candidates ranked relative to one another.

Conclusion

This report provides a summary of findings related to the Merit Commissioner's 2014/15 Merit Performance Audit.

A total of 243 individual appointments to and from within the BC Public Service were audited in 2014/15. The overall results of the audit show that the majority of appointment processes were determined to be based on merit. The number of cases with an overall "merit" finding where no issues or flaws were identified represents an improvement over the previous audit cycle. With the increase in "merit" findings, there were fewer "merit with exception" findings – i.e., where an issue was identified but a direct impact on the outcome of the appointment could not be established. There were also fewer "merit not applied" findings, where serious flaws were identified that had an impact on the outcome of the hiring process.

Although the highest number of problematic findings resulted from issues or flaws with assessment, documentation or notification, it was the process and assessment findings that were of greatest concern as they included the most significant issues, and almost all of the findings of "merit not applied". It was also noted that issues in calculating years of continuous service markedly increased in 2014/15; however, this may be the result of the transition to a new formula for this calculation, and as such may decrease in the next audit cycle with increased familiarity with the calculation. This will be monitored going forward.

In all cases, the individuals who were appointed met the qualifications specified as required for the position.

The results of the 2014/15 Merit Performance Audit indicate that hiring to and from within the BC Public Service is, for the majority of appointments, based on the principle of merit. However, some aspects of the hiring process continue to require attention and the following recommendations highlight areas for improvement which would strengthen merit-based hiring.



Recommendations

Based on the findings and most significant issues identified in the 2014/15 Merit Performance Audit, the Merit Commissioner makes the following recommendations which are, for the most part, directed to deputy ministers and organization heads. It is recognized, however, that BC Public Service Agency action and assistance may be necessary to support the implementation of these recommendations.

Process

- Ensure that a competitive process is undertaken to make appointments which, at a minimum, allows for the possibility of a reasonable applicant pool and evaluation of applicants, rather than using an approach which has only one possible outcome.
- When using the results of a previous competitive process, confirm that the position to be filled is similar enough to the initial vacancy to legitimately use the results; and give consideration to the continued validity of the results when circumstances, such as time elapsed since the initial competition, are taken into account.

Assessment

- Ensure that the qualifications advertised as minimum requirements are accurate and are not reduced at the short-listing stage.
- Establish meaningful and sufficient assessment standards for each element of the selection process.

Notification

- Ensure final notification of the competition outcome to employee applicants includes those eliminated during screening or early stages of the process.



Appendix A

Organizations Subject to Oversight by the Merit Commissioner

(As of March 31, 2015)

Ministries

Aboriginal Relations and Reconciliation
Advanced Education
Agriculture
Children and Family Development
Community, Sport and Cultural Development
Education
Energy and Mines
Environment
Finance
Forests, Lands and Natural Resource Operations
Health
International Trade
Jobs, Tourism and Skills Training
Justice
Natural Gas Development
Social Development and Social Innovation
Technology, Innovation and Citizens' Services
Transportation and Infrastructure

Independent Offices

Auditor General
Elections BC
Information and Privacy Commissioner
Merit Commissioner
Ombudsperson
Police Complaint Commissioner
Representative for Children and Youth

Courts of British Columbia

Provincial Court of BC
Supreme Court of BC
BC Court of Appeal

Other Public Sector Organizations

Agricultural Land Commission
Auditor General for Local Government
BC Human Rights Tribunal
BC Pension Corporation
BC Public Service Agency
BC Review Board
Community Care and Assisted Living Appeal Board
Destination BC
Employment and Assistance Appeal Tribunal
Environmental Appeal Board
Financial Institutions Commission
Financial Services Tribunal
Forest Appeals Commission
Forest Practices Board
Health Professions Review Board
Hospital Appeal Board
Independent Investigations Office
Islands Trust
Office of the Premier
Oil and Gas Appeal Tribunal
Property Assessment Appeal Board
Public Guardian and Trustee
Public Sector Employers' Council Secretariat
Royal BC Museum
Safety Standards Appeal Board
Surface Rights Board



Appendix B

**Response from the Deputy Minister of the BC Public Service Agency
(Agency Head)**

October 29, 2015

CLIFF #5755

Fiona Spencer
Merit Commissioner
Office of the Merit Commissioner
5th floor – 947 Fort Street
Victoria, BC V8W 2C4

Dear Ms. Spencer:

Thank you for providing the opportunity to respond to the 2014/2015 Merit Performance Audit Report. As the newly appointed Deputy Minister of the BC Public Service Agency, I am pleased to respond.

A review of the Merit Performance Report indicates that 243 random audits of appointments were conducted to examine whether recruitment and selection processes were properly applied to result in merit-based appointments, and whether the individuals appointed were qualified for the positions. I am pleased to see the BC Public Service has continued to appoint individuals that possess the qualifications required for the position and that there was no evidence that any appointments were the result of patronage. This is consistent with all previous audit results and represents a desired outcome of recruitment efforts.

I am especially pleased to see the significant increase to the “merit applied” findings category in your auditing process and the resulting decreases in the “merit with exception” and “merit not applied” findings. Notwithstanding, I feel there is still more work that can be done to show continuing improvement.

The most common reasons for the findings of “merit with exception” or “merit not applied” were categorized as issues with process and assessment. Earlier this year, we implemented bi-weekly hiring webinars to provide just in time training and advice to hiring managers during their recruitment process. These hiring webinars focus on posting preparation, screening and assessment. Due to the overwhelmingly positive response and high participation rates, additional webinars on complementary hiring topics will be developed in the coming future.

Applicant inventories will continue to play a key role in our recruitment initiatives and the implementation of hiring strategies to efficiently recruit in the BC Public Service. We have established a notification board for active hiring inventories to inform all applicants of the final competition results as well as updated public facing MyHR content to transparently communicate the hiring process.

We have further refined our business and adopted a sector based model to address the needs of hiring managers and ministries. Hiring advisors now receive in-depth sector related training to allow for consistent guidance and advice to managers recruiting for similar positions, in addition to their recently updated training program. We have also implemented a dedicated resource assigned to continuously review and update the training program as well as to provide consistent expert training to hiring staff. It is my intention that these improvements will allow us to identify and promote the use of consistent corporate assessment standards in our hiring practices.

Given the improvements to date, I am confident we will continue to see advancements in all aspects of the hiring process. Your ongoing feedback through the performance audits will assist us as we strive for continuous improvement. The meticulous development of content for MyHR, improved tools and resources for hiring managers and hiring advisors is a priority for me and will continue to take into account the recommendations you have made.

In addition, the use of eligibility lists and strategies to mobilize talent across the Public Service will continue to play a key role in how we hire and staff positions, as well as to prepare for and address succession planning requirements. I support previous commitments to transform hiring so that it is more data-driven, technology supported, efficient and consistent across the BC Public Service.

To ensure appointments continue to be based on merit, I am committed to ensuring transparent and efficient hiring practices across the BC Public Service. As we develop hiring strategies and processes, I will be pleased to share with you and your Office.

Yours truly,

A handwritten signature in black ink, reading "Lori Halls". The signature is written in a cursive, flowing style.

Lori Halls
Deputy Minister