



Office of the Merit Commissioner

**Service Plan
Fiscal Years
2012/13 – 2014/15**

**Presented to
The Select Standing Committee on Finance and Government Services
Legislative Assembly of British Columbia**

November 15, 2011



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Message from the Merit Commissioner

I am pleased to present the 2012/13 – 2014/15 Service Plan for the Office of the Merit Commissioner.

The past year proved challenging for the Office on a number of fronts. The changes to hiring practices within the BC Public Service and the manner with which staffing records are now maintained within the system, introduced unanticipated complexities and delays in commencing the 2010 Merit Performance Audit. Ongoing dialogue with the BC Public Service Agency (BCPSA) was needed as the audit progressed to ensure complete and accurate documentation was available for audit. Although the audit was restricted to only those appointments made in the latter third of the year because of the systemic change in staffing practice, a high sampling rate of 18.4% overall resulted in close to 200 appointments being examined.

My small but dedicated office team, supplemented by a group of contracted external auditors, ensured continued progress and quality results over the course of the year. The last four months provided an additional challenge as the Office's longstanding manager, Dodie Barber, retired in the early summer. Her successor is now in place and we are taking steps to ensure the Office is not vulnerable to future turnover. Our work has been informed and enhanced through the advice provided by our Audit Advisory Committee. This group of external experts in public management and audit not only challenge our thinking but provide us with fresh and varied perspectives on public sector hiring.

The strategies and work plan for 2012/13 – 2014/15 are focused on continuing our oversight of staffing in the public service, examining those areas where merit-based hiring may be at risk, and gaining further insight into public service hiring practices.

I have come to know how committed my team is to the value of the work that we do. I am proud to share in that commitment and look forward to continuing to serve the citizens of British Columbia by upholding merit-based hiring in the public service.



Vision

A professional and non-partisan public service that is hired and promoted on the principle of merit.

Mission

To serve the people of British Columbia through their elected representatives of the Legislative Assembly by monitoring public service appointments to ensure the application of the merit principle in hiring and promotions in the BC Public Service.

Responsibilities

All appointments to and within the BC Public Service must be made on the principle of merit. Merit means that appointments are made on the basis of an assessment of competence and ability to do the job, and are not influenced by patronage.

The Merit Commissioner provides independent oversight of and insight into appointments to and from within the BC Public Service. This oversight role applies to appointments made under section 8 of the *Public Service Act*.

The Merit Commissioner has three central responsibilities under the *Act*:

- to monitor the application of merit by conducting random audits of appointments and reporting the audit results to the deputy ministers or heads of the organizations in which the appointments were made;
- to provide a review of the application of merit as the final step in a staffing review process for bargaining unit positions; and
- to report annually to the Legislative Assembly on the application of the merit principle.

The Merit Commissioner may:

- undertake special reports or merit performance reviews of system-wide issues related to the application of the merit principle; and
- undertake surveys and research to assess the attitude of the public service related to merit-based hiring and recruitment.

The Office provides credible and relevant information about staffing on which the employer may act to produce positive changes. These outputs all support the long-term goal of building public confidence and a strong consensus that the BC Public Service is qualified, and hired fairly according to the principle of merit.



Context

BC Public Service Workforce

As of October 1, 2011 there were 34,117 employees in the BC Public Service (an increase of 671 since reporting at this time last year). These employees work in 19 ministries and central agencies, 13 agencies boards and commissions, and seven independent offices.

Employees are appointed under the *Public Service Act* on a regular or auxiliary (temporary) basis. They may be unionized, managers or other non-unionized employees. Distribution of the population by these categories is shown below at Charts 1 and 2.

Chart 1 Employees Appointed Under the *Public Service Act* – By Status
(As of October 1, 2011)

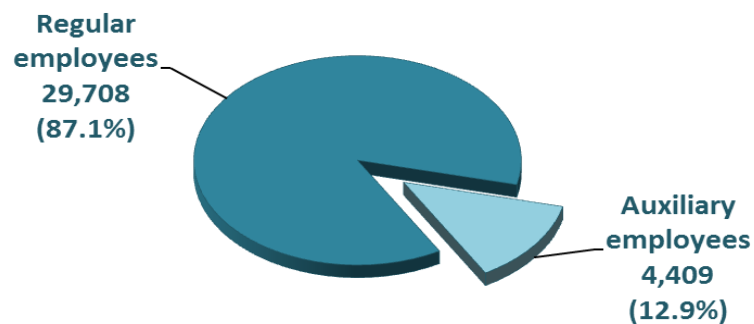
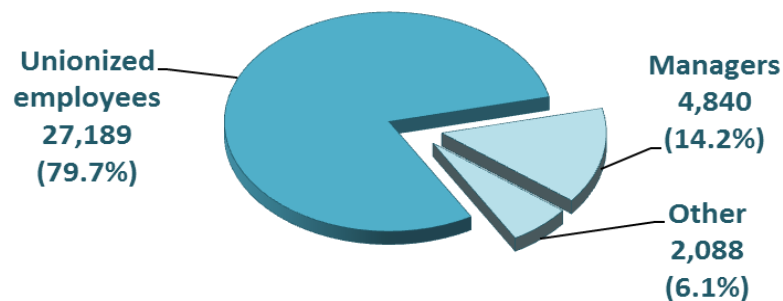


Chart 2 Employees Appointed Under the *Public Service Act* – By Type
(As of October 1, 2011)

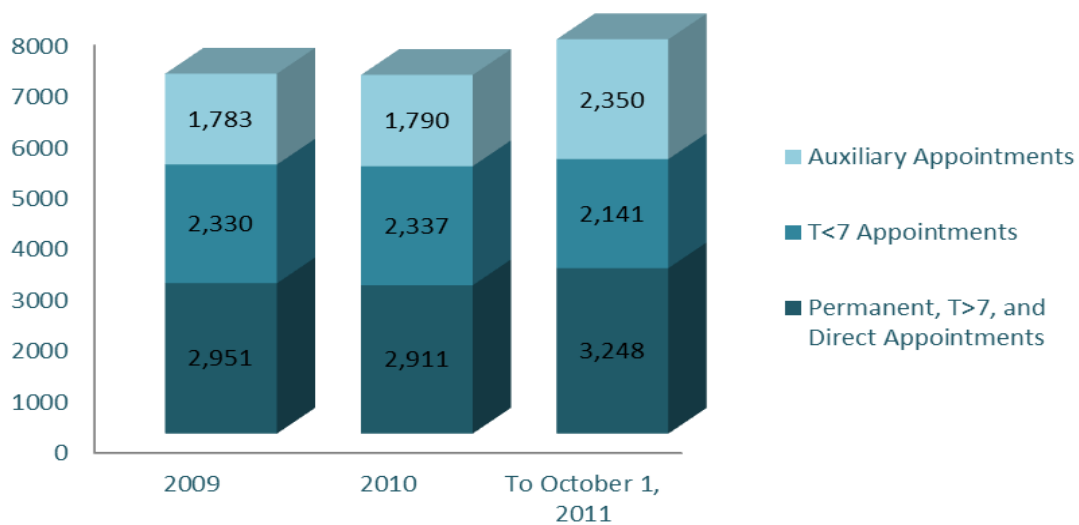




Appointment Activity

The Office of the Merit Commissioner audits appointments to and within the public service that are made under Section 8 of the *Act*. Chart 3 shows total numbers of these appointments, by appointment type, for the last three years. Despite a reduction in the overall size of the public service, the number of appointments to date in 2011 has already surpassed the total number of appointments in each of 2009 and 2010.

Chart 3 Year-to-Year Comparison of *Public Service Act* Appointments Subject to Oversight by the Merit Commissioner



Our Work

We carry out our responsibilities in the following ways.

- Annual merit performance audit of new appointments
- Special audits of categories of appointments
- Special studies related to merit-based appointments
- Research and analysis
- Staffing reviews
- Outreach
- Merit Commissioner recommendations and follow-up
- Annual Report



Performance Measures and Targets

Annual Audits

The goal in our annual merit performance audits is to have a sample size that is sufficiently robust to allow the audit results to be confidently generalized to the population of all appointments made. A target is established of a 95% confidence interval (that is, that there is a less than a 5% chance that results lie outside the interval).

BC Stats has developed a sampling solution to ensure that the cases selected for audit are both random and representative. Based on sample size, the representativeness of the sample selected, and other considerations, BC Stats states that: the target was achieved; a high level of confidence can be placed in the accuracy of the 2010 merit findings; and findings can be extrapolated, for the period of the audit, to the entire population.

Detailed audit results are reported to deputy ministers, heads of organizations, and the Head, BCPSA . Summary results are contained in the Merit Commissioner's Annual Report to the Legislative Assembly which is publicly available on the Office's website.

Special Audits and Studies

In 2010 the merit performance audit included a higher rate of sampling of appointments within the Administrative Support occupational category. This approach was introduced, in lieu of a special audit, to determine if the trend toward lower Work Environment Survey scores for this group could be attributed to appointment practices. Also, it was considered that merit-based hiring for this group could be at increased risk due to the introduction of pooled hiring processes. The 2010 audit found no significant difference between the Administrative Support category and the general population; however, given the condensed audit period for 2010, the Office will continue to request a higher rate of sampling of appointments in this category in the 2011 Merit Performance Audit to confirm these findings.

Results of special audits and studies will be reported within 30 days of the conclusion of the study to the Head, BCPSA so that follow-up action may be taken as required and appropriate. Results of two recent undertakings, an auxiliary appointments audit and a lateral transfer study, were provided to the Agency within this targeted timeframe.

Staffing Reviews

It is important to the employer, and to the employee who may request the Merit Commissioner undertake a review of an appointment decision, that a timely review takes place and a timely decision is rendered.



The Office of the Merit Commissioner will acknowledge receipt of an employee’s request for review within one working day. Should the request for review not meet the required mandatory criteria, the employee will be advised of the ineligibility of the request within 10 days. Eligible requests will be investigated thoroughly and review decisions provided to the employee and employer within 30 days of receipt of material required for the review. The Office will target to achieve these performance measures 100% of the time.

In 2010/11, this target was met except in one case, where the decision was rendered within 35 days. We fell short of our target once to-date, in 2011/12.

Ongoing

Staffing practices are one of four key drivers of employee engagement. By monitoring organizational performance against certain indicators that staffing practices are fair and merit-based, the Office maintains a general sense of the “state-of-health” of merit-based hiring in the BC Public Service.

Indicators of Merit-based Hiring

Merit-based hiring requires the commitment of all public servants. The framework shown in Chart 4 provides an overview of key actions and associated performance indicators. Improved performance vis-à-vis these actions would be expected to lead to improved merit-based hiring and consequently improved employee engagement.



Chart 4 Indicators of Merit-based Hiring

WORKPLACE CULTURE	
ACTION	PERFORMANCE INDICATOR
Deputy Ministers are seen and believed to be committed to merit-based hiring	Statements and actions match the Corporate Human Resource Plan Corrective actions are taken following staffing review findings
Managers and supervisors upholding merit in hiring and promotions	Audits and staffing reviews
Employee opinions of merit-based and fair staffing practices	Work Environment Survey, focus groups, and special studies
MERIT-BASED HIRING SYSTEM	
ACTION	PERFORMANCE INDICATOR
Hiring policy, legislation and relevant collective agreement provisions are known and applied consistently	Audits, staffing reviews, and surveys
Hiring practice is transparent, fair, and decisions are reasonable and job related	Audits and staffing reviews
Continuous improvement	Audit follow-up and tracking
Merit Commissioner recommendations are responded to and implemented	Monitoring
Code of conduct and ethics training emphasize the principle of merit in hiring	Government training and course content
EMPLOYEE RESPONSIBILITY	
ACTION	PERFORMANCE INDICATOR
Employees are aware of and use the staffing review process	Monitoring and outreach
Managers are recognized for merit-based hiring	Audits and staffing reviews



Progress on Key Commitments

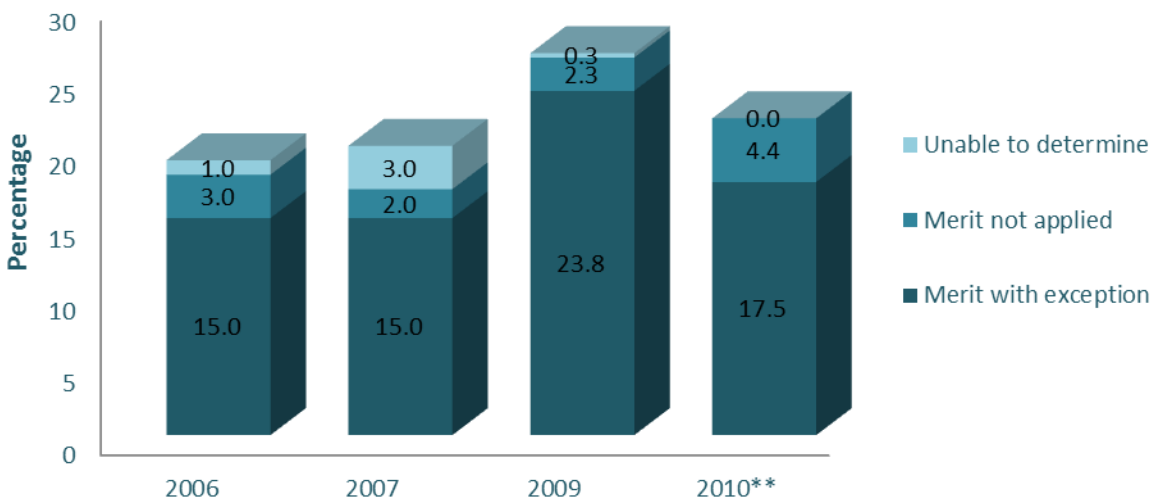
Merit Performance Audit

In October 2009 the BC Public Service made some fundamental changes to the way human resource services are provided, including the consolidation of hiring services into the BCPSA, the creation of a Hiring Centre, and the implementation of an electronic recruitment system. These changes and the introduction of collective or “pool” staffing had a significant impact on how the Office performs its audit function and proved administratively challenging.

To allow the public service time to adjust to this new system and to ensure only appointments made under the new processes were captured, the 2010 Merit Performance Audit focused on appointments made between September 1, 2010 and December 31, 2010. Deputy ministers and heads of organizations received detailed reports at the conclusion of the audit. The Head, BCPSA received the results of the audit along with recommendations to address identified areas of weakness or concern. Results and recommendations were included in the 2010/2011 Annual Report of the Merit Commissioner.

Chart 5 provides year-to-year merit performance results over the past four annual audits. In 2010, the two “merit” categories (i.e., appointments that were the result of a merit-based process or were determined to be merit with exception as a result of issues with either the conduct of the process or the application of policy) represent 95.6 per cent of findings. The four-month 2010 audit found that merit was not applied in 4.4 per cent of the appointments audited; in 2009 the rate was 2.3 per cent.

Chart 5 Year-to-Year Finding Other than “Merit Applied”*



*An annual audit was not conducted in 2008 due to the transition to a new audit approach.

** The 2010 Audit covered appointments from September 1, 2010 to December 31, 2010.



Special Audit of Auxiliary Appointments

A special audit of auxiliary appointments was conducted to determine whether this appointment type (intended for work which is not of a continuous nature) was being used for its intended purpose. The audit identified some areas of potential risk to merit-based hiring where auxiliary employees appeared to be working in one specific position without layoff, for periods of time ranging from more than one year to 25 years. Given the potential for such appointments to be a circumvention of the merit principle, the BCPSA was provided with findings and observations to allow them to examine their policies and practices to guard against the possible inappropriate use of this appointment type.

Special Study of Lateral Transfers

A study of lateral transfers was undertaken to determine the extent to which appointments identified as lateral transfers (and therefore exempt from the requirement for a merit-based process) were in fact promotions. No significant risk to merit-based hiring was identified through this study.

Staffing Reviews

Seven eligible requests for review were received in the 2010/2011 fiscal year. Employees' grounds were related to factors such as inconsistencies in process; competency-based behavioural event interviews; the assessment of years of continuous service; and perceived bias. In one case, although the individual appointed was qualified, the appointment was not found to be the result of a merit-based process and the deputy minister was directed to reconsider the appointment.



Challenges Ahead

A significant number of the recommendations resulting from this Office's annual merit performance audit related to the newly centralized hiring services. The BCPSA continues to refine the system and make adjustments to processes; therefore, some further adjustment to our audit practices may be required.

The Agency has indicated their plan to increase the use of corporate hiring pools and therefore decrease the need for individual competitions to fill vacancies in certain occupational groups. From our audit activity, we have noted that the hiring pool recruitment process presents some risk to merit-based hiring. While the Agency's interest in streamlining and increasing the efficiency of hiring is understandable, our audit would indicate that changes are needed in how these "pools" are managed to ensure the merit principle is respected.

Since 2008 there has been a trend within the BC Public Service toward the increased use of short-term temporary appointments, which do not require a competitive process. In 2008, 24 per cent of all appointments were short-term temporary appointments. In 2009, this figure increased to 33 per cent and remained at 33 per cent in 2010. To date in 2011, data indicates that this level of temporary hiring will continue. As the findings of our 2009/10 special audit of temporary appointments highlighted significant potential for circumventing the merit principle through extended and extensive use of short-term temporary appointments, and resulted in a number of recommendations to the BC Public Service Agency, another special audit of this appointment type can be justified.

Results of the BC Public Service's annual Work Environment Survey continue to indicate negative responses to those questions related to staffing in the public service. Our increased sampling of appointments to occupational groups where there have been consistently low scores in this area showed no difference in the quality of merit-based hiring between these groups and the broader population. In an effort to gain some insight into the concerns employees have with respect to merit-based hiring, a thorough examination of all relevant comments contained the last two Work Environment Surveys will be undertaken.

With the exception of 2009/10, the number of requests for staffing reviews has been fairly consistent over the past 5 years. Nevertheless, the number remains low in relation to the total number of appointments made in a year in the public service and the question arises as to whether this may be the result of overly restrictive avenues of recourse and redress. Some examination of this issue is warranted.



Priorities for Fiscal 2012/13

Merit Performance Audit

After adjusting business processes and the merit performance audit tool, a full and robust audit of appointments in 2011 is underway. The 2011 audit sample includes appointments made throughout the province, in large and small organizations, in bargaining unit and excluded management positions, and in occupational groups considered at risk or of concern. The latter criteria have been adjusted to allow for a higher rate of sampling of appointments within the Administrative Support occupational group to address the trend of lower Work Environment Survey scores and to determine the impact, if any, of pooled hiring processes.

The 2011 Merit Performance Audit will be concluded in the first quarter of the 2012/13 fiscal year.

Alternative approaches to conducting the merit performance audit in 2012 are being examined. While maintaining the integrity of the audit, some consideration is being given to making adjustments such as focusing on specific aspects of the appointment process identified in past audits as in need of improvement, or focusing on specific organizations or occupational categories that may present risks to merit-based hiring.

Special Audits

A special audit of temporary appointments originally intended to be under seven months in duration but which have continued significantly beyond that timeframe will be undertaken. This audit will focus on determining to what extent issues identified in the first audit still exist or may have been addressed.

Given the BCPSA's interest in increasing and expanding the use of the corporate hiring pools, a special audit of the process by which applicants are assessed for inclusion in the pre-qualified pool and the process by which they are referred to managers for further consideration will be undertaken. In the 2010 Merit Performance Audit, it was feasible to examine only that part of the appointment process from the point of referral to the manager going forward. This special audit will also examine the "front-end" of these types of appointment processes.

Special Studies

In the course of the 2010 audit it was noted that a significant percentage of appointments resulted from quite restrictive competitive processes: processes that were restricted to a particular ministry or even to a particular work unit within a ministry. While within legislative and policy parameters to impose such restrictions, an overly limited area of competition may be construed as also limiting an open and transparent process. A study on the impact of this trend on merit-based hiring will be undertaken.



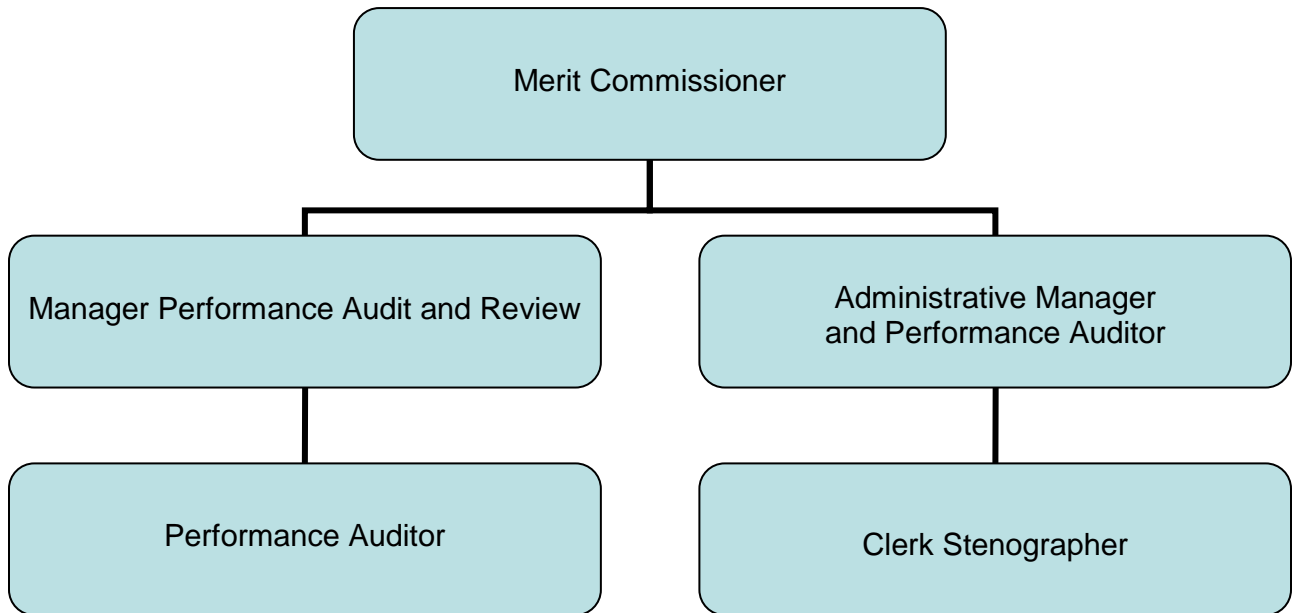
Audit and review findings, as well as input from employees and their representatives have raised the question of whether the recourse and redress procedures currently in place ensure that employees have easy access to timely and accurate information about their performance in competitive processes. The short timeframes for questioning appointment decisions and hiring methods which leave groups of employees without access to recourse suggest some further thought and study is warranted.

Possible Special Audits and Studies for Fiscal 2013/14 and Beyond

The future work of the Office will be driven by results of our audits and studies in the coming fiscal year, challenges identified as the hiring process in the public service continues to evolve, and changes to the public service environment and priorities. Possibilities include follow up studies of lateral transfer and auxiliary appointment processes; an examination of assessment tools and their impact on fair hiring; and a study on addressing diversity issues while respecting principles of merit-based hiring.



Appendix 1 Office Structure





Appendix 2 Organizations Subject to Oversight by the Merit Commissioner

(Organizations with staff appointed under section 8 of the *Public Service Act* [RSBC 1996])

Ministries (as at March 14, 2011)	Independent Offices
Aboriginal Relations and Reconciliation	Auditor General
Advanced Education	Elections BC
Agriculture	Information and Privacy Commissioner
Attorney General	Merit Commissioner
Children and Family Development	Ombudsperson
Community, Sport and Cultural Development	Police Complaint Commissioner
Education	Representative for Children and Youth
Energy and Mines	
Environment	Agencies, Boards and Commissions
Finance	BC Pension Corporation
Forests , Lands and Natural Resource Operations	BC Public Service Agency
Health	Broadmead Care Society
Jobs, Tourism and Innovation	Employment and Assistance Appeal Tribunal of BC
Labour, Citizens' Services and Open Government	Environmental Appeal Board
Office of the Premier and Cabinet Office	Financial Institutions Commission
Public Safety and Solicitor General	Forensic Psychiatric Hospital and Riverview Hospital (BC Mental Health and Addiction Services)
Social Development	Forest Appeals Commission
Transportation and Infrastructure	Forest Practices Board
	Islands Trust
	Oak Bay Lodge Continuing Care Society
	Provincial Capital Commission
	Public Sector Employers' Council
	Royal BC Museum