



Office of the
Merit Commissioner

Service Plan

Fiscal Years

2014/15 – 2016/17

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

December 5, 2013



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Message from the Merit Commissioner

It is a privilege to present this service plan for the Office of the Merit Commissioner and to highlight the Office's accomplishments over the past year. My reappointment as Merit Commissioner enables me to continue the important work of upholding fair hiring in the BC Public Service.

In August, I presented to the Speaker my Annual Report for 2012/13 and used the opportunity to provide somewhat of a retrospective on the work of the Office since my initial appointment as Merit Commissioner. The Office recently published the detailed analysis of our merit performance audit of 2012 appointments to and within the public service, as well as the report on the special audit of short-term temporary appointments. Findings from both these audits indicate that there continue to be areas of merit-based hiring in the BC Public Service where improvements could be made.

Although the merit performance audit found no evidence that unqualified individuals are being appointed, the trends in merit-based hiring are of concern. The findings where merit was not applied in the appointment process did decrease since 2011, but at 6.1 per cent this rate is almost triple that of 2009. In addition, we found a significant increase in the number of appointments where issues were identified with the application of policy or collective agreement provisions or conduct of the process, mainly related to providing employees with appropriate access to redress and to the proper documenting of hiring decisions which justify appointments.

The special audit of temporary appointments was a follow-up to a similar audit conducted in 2009 when we identified a number of concerns with the use of this appointment type. The most recent audit found that little progress has been made toward rectifying previously identified issues. The audit confirmed that there continues to be a number of employees who have been temporarily promoted without the benefit of a merit-based process.

The number of requests for final level review of appointment decisions by the Merit Commissioner decreased significantly last year from the previous year. Of those requests received, all appointment decisions were upheld.

Our priorities and work plan for 2014/15 are focused on increasing the relevancy and impact of our work. We are planning improvements to our audit program, consulting with stakeholders and focusing on areas for audit and research where there may be risks to merit-based hiring. The small staff of the Office of the Merit Commissioner, along with our contracted auditors, are committed to continuing this important work.



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 from 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 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 26, 2013 there were 31,177 employees in the BC Public Service, which is a reduction of approximately 2,800 since reporting at this time last year. These employees work in ministries and central agencies; agencies, boards and commissions; and Independent Offices of the Legislature.

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

Chart 1 – Employees Appointed Under the *Public Service Act* – By Status

(As of October 26, 2013)

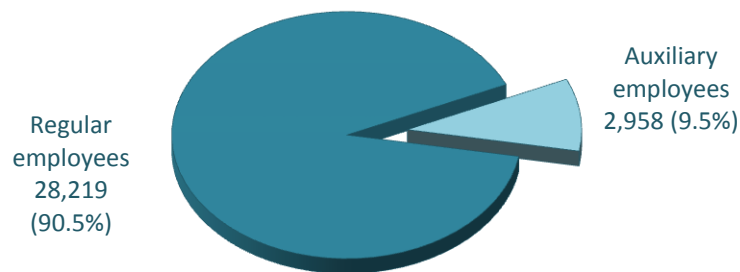
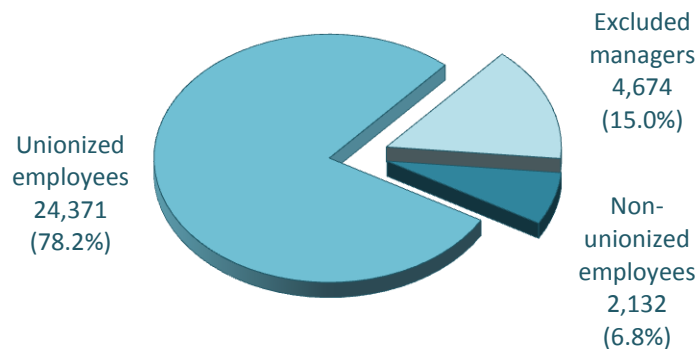


Chart 2 – Employees Appointed Under the *Public Service Act* – By Type

(As of October 26, 2013)

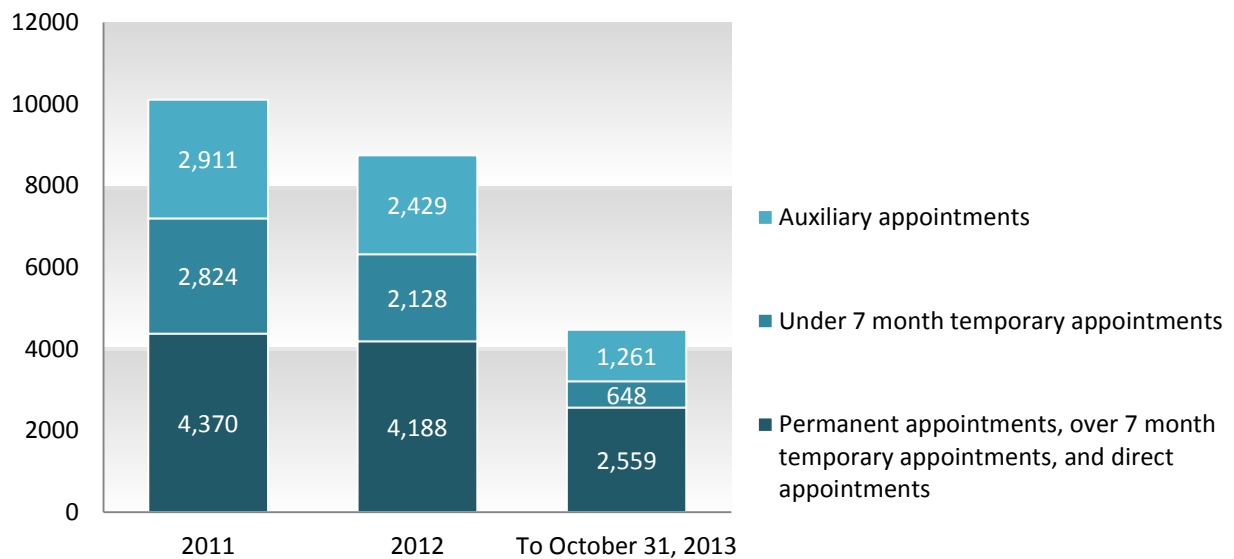




Appointment Activity

The Office of the Merit Commissioner audits appointments to and from within the public service that are made under section 8 of the *Public Service Act*. Chart 3 shows total numbers of these appointments, by appointment type, for the last three years.

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



* Note: Does not include *Public Service Act* appointments made in the Liquor Distribution Branch and Forensic Psychiatric Services Commission and Riverview Hospital



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 indicators of merit-based hiring.

Chart 4 – Indicators of Merit-based Hiring		
Indicator		Office of the Merit Commissioner Related Responsibilities
Regulatory Framework	BC Public Service hiring complies with hiring policy, legislation and relevant collective agreement provisions	Report annually on the status of BC Public Service hiring to the Legislative Assembly and the BC Public Service Agency
	Organization heads and hiring managers are aware of hiring policy, legislation and relevant collective agreement provisions	Publish annual report of merit performance audit, special audits and studies, and staffing review findings and recommendations
Hiring Practices	Hiring practices are transparent, fair, and decisions are reasonable and job related	Conduct merit performance audits, special audits and studies Carry out staffing reviews Increase awareness of merit-based hiring practices Provide comment and/or recommendations on hiring practices
Workplace Culture	Organization heads are seen and believed to be committed to merit-based hiring	Report audit findings to organizations Confirm organization's appointment decisions or direct reconsideration of decisions following requested staffing reviews Monitor organizational responses to audit and review findings
	Managers and supervisors uphold merit in hiring and promotions	Deliver information sessions on the role of the Office Perform individual audits and report findings Conduct individual staffing review investigations
	Use of the staffing review process	Provide clear and easily accessible information for employees to ensure awareness Deliver information sessions on the role of the Office Monitor and report review process usage
	Employee responses to staffing related questions on work environment surveys	Review related responses Carry out special audit and studies



Performance Measures and Targets

The Office establishes and publishes performance measures and targets in a number of areas. We hold ourselves accountable for respecting and achieving these targets, and examine our practices and procedures regularly with a view to continuous improvement.

Merit Performance Audit

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 within the same time period.

Detailed audit results are reported to deputy ministers, heads of organizations, and the Head, BC Public Service Agency (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. Detailed analyses and a final report are also made available on the Office's website.

Performance Measures	Target and Results			
	2012/13		2013/14	2014/15
	Target	Results	Target	Target
1. Generalizable audit results (% confidence intervals)	90% (2012 audit)	95% (2012 audit)	95% (2013/14 audit)	95% (2014/15 audit)
2. Report audit results to organization heads and BCPSA within six months of audit period	May 2013	May 2013	July 2014	July 2015
3. Publish annual audit findings within four months of reporting results	August 2013	November 2013	October 2014	October 2015

Special Audits and Studies

Results of special audits and studies will be reported as soon as possible following the conclusion of the audit or study so that follow-up action may be taken as required and appropriate. Information is made public through the Office of the Merit Commissioner website.

Performance Measures	Target and Results: Short-Term Temporary Appointments (2012)	
	Target	Results
4. Report findings of special audits to organization head and BCPSA within 30 days of conclusion	November 2013	November 2013
5. Publish information on website within 60 days of conclusion	December 2013	November 2013



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 thorough review takes place and a timely decision is rendered.

Performance Measures	Target and Results			
	2012/13		2013/14	2014/15
	Target	Results	Target	Target
6. Complete reviews within an average of 30 days	30 days	28 days	30 days	30 days

Progress on Key Commitments

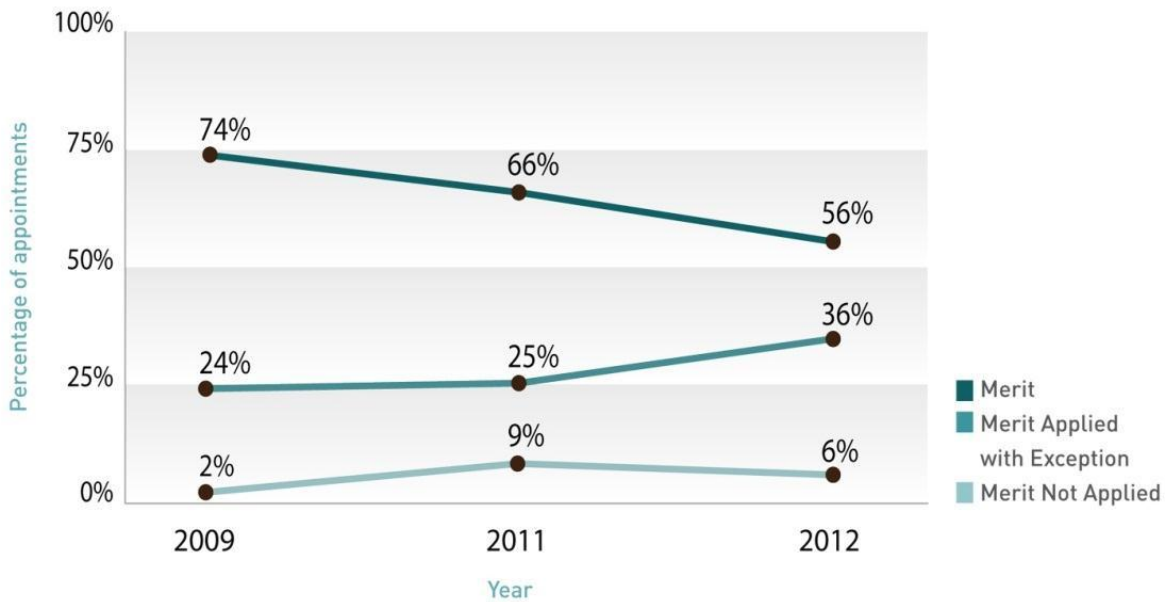
Merit Performance Audit

A robust audit was completed in 2012. Fewer appointments were made overall as a result of the hiring restrictions implemented in September 2012; however, a similar number of audits to the previous year were conducted in order to be able to generalize the results to the public service. Deputy ministers and heads of organizations received detailed reports and the Head, BCPSA received the results of the audit in May 2013. The overall analyses and recommendations to address identified areas of weakness or concern were released in November 2013: this delay beyond the targeted release date was due to workload issues related to the change in annual report release and the time required by the BCPSA to consider and respond to the draft audit report and its recommendations.

Chart 5 provides year-by-year merit performance results for the past three full-year annual audits. In 2012, 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) represented 92.1 per cent of findings. The 2012 audit found that merit was not applied in 6.1 per cent of the appointments audited; in the audit of 2011 appointments, the rate was 8.5 per cent, and in 2009, the rate was 2.3 per cent. The number of non-merit-based appointments has shown improvement; however, there has also been an increase in merit with exception processes and a corresponding decrease in merit-based processes.



Chart 5 – Year by Year Findings Other than “Merit Applied”



Notes:

Percentages have been rounded for ease of reference.

2010 partial-year audit findings are not included.

“Unable to Determine” findings, which have consistently been less than 2 per cent each year, are not included.

Special Short-Term Temporary Appointment Audit

As a previous special audit highlighted the extended and extensive use of short-term temporary appointments and resulted in a number of recommendations to the BCPSA, another special audit of this appointment type was conducted and reported in November 2013. This audit examined whether this appointment option is being used for its intended short-term purpose, whether the number of lengthy temporary appointments has decreased, and if the Merit Commissioner’s previous recommendations were implemented. The audit indicated that there continues to be a large number of employees who have been temporarily promoted and extended for more than seven month terms without a full merit-based process. Recommendations were included in the report for both organization heads and the Head, BCPSA related to management accountability, monitoring, and guidance.

Staffing Reviews

Seven requests for review were received in the 2012/13 fiscal year: three of these requests were ineligible for consideration. Employees’ grounds were related to factors such as flawed assessment process and inappropriate consideration of a qualification. The Merit Commissioner found, in all cases (including a decision for a review received late in fiscal year 2012/13), that the appointments were the result of merit-based processes.



Priorities for Fiscal 2014/15

Efforts have been made and will continue to be made to improve the timing and relevance of audit reports by conducting audits and analyzing evidence closer to the time appointments were made, ensuring audits are addressing areas of risk, and communicating results and recommendations to those accountable for hiring decisions in order to have a greater impact on learning and hiring practices. A greater emphasis on outreach has recently been undertaken with the goal of improving stakeholder relationships, understanding of organizational hiring practices related to the work of the Office, and gathering feedback on concerns related to merit-based hiring and possible areas of further study.

Merit Performance Audit

A robust audit of appointments made in 2013/14 has commenced. We are moving the audit cycle from a calendar to a fiscal year in order to better align with reporting requirements and to increase consistency with our staffing review cycle and with government norms. The 2013/14 audit sample will include appointments made throughout the province, in large and small organizations, in bargaining unit and excluded management positions, and all occupational groups. The 2013/14 Merit Performance Audit results will be reported in the fall of 2014.

Special Audits

There are no special audits planned for 2014/15 to allow the Office time to conclude the examination of its audit program and to make adjustments if necessary, and to enable the conduct and conclusion of two special studies into issues which have been of longstanding interest. Also, it is anticipated that there will be an analysis required of the results of the public service-wide Work Environment Survey as they relate to hiring practices.

Special Studies

Behavioural interviewing is extensively used as a form of staffing assessment in the BC Public Service. Issues have been noted previously with respect to the manner in which behavioural interviewing is implemented in the staffing process and its inconsistent use. Also, concerns have been raised by employees who request staffing reviews and through responses to the Work Environment Survey about what employees consider to be an over-reliance on this hiring tool. A special study of the use and impact of behavioural interviewing is underway to determine if merit-based hiring is affected by this form of assessment in the manner it is used within the public service.

There are a number of ways to undertake the short-listing of applicants. The Office has observed that there are increasing challenges with this method of assessment, including the use of electronic self-assessment questionnaires. Further, in order to increase efficiency in recruitment, applicants to BC Public Service positions may be required to take a variety of standard tests. Therefore, a special study of standard assessment tools is planned beginning in 2013/14.



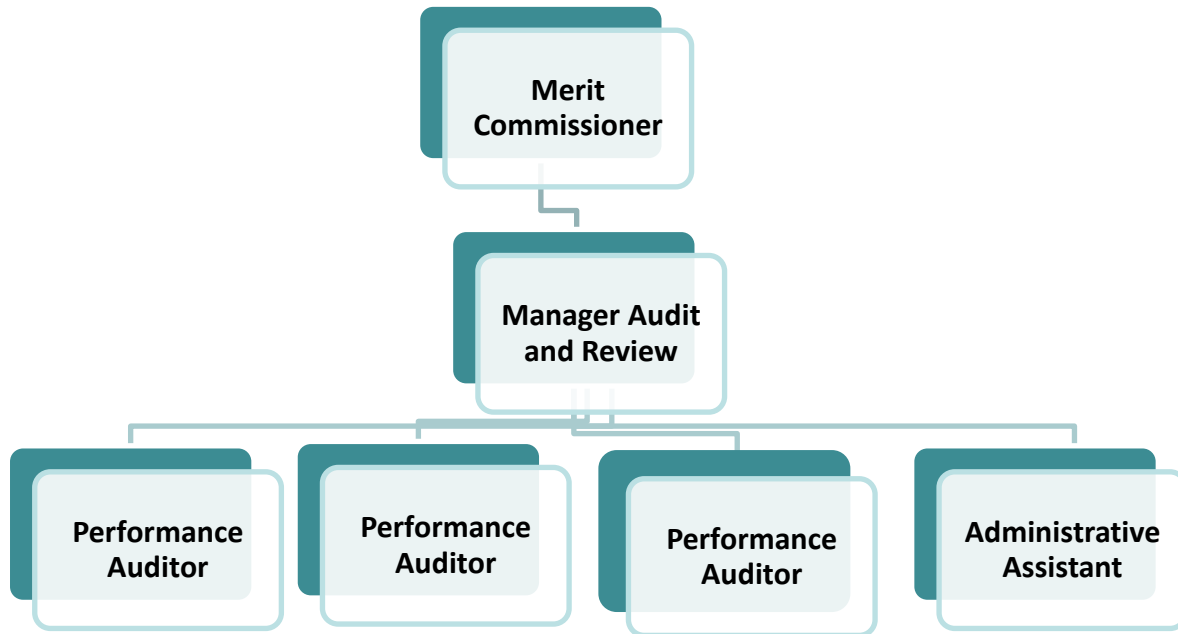
Special Audits and Studies for Fiscal 2015/16 and Beyond

The future work of the Office will be driven by results of our audits and studies in the coming fiscal years, 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 and a study of the trend toward imposing increased restrictions on the area of competition.



Appendix A

Office Structure





Appendix B

Organizations Subject to Oversight by the Merit Commissioner

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

As of March 31, 2013

Ministries

Aboriginal Relations and Reconciliation
Advanced Education, Innovation and Technology
Agriculture
Children and Family Development
Citizens' Services and Open Government
Community, Sport and Cultural Development
Education
Energy, Mines and Natural Gas
Environment
Finance
Forests, Lands and Natural Resource Operations
Health
Jobs, Tourism and Skills Training
Justice
Social Development
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
Broadmead Care Society
Community Care and Assisted Living Appeal Board
Destination BC
Employment and Assistance Appeal Tribunal
Environmental Appeal Board
Financial Institutions Commission
Financial Services Tribunal
Forensic Psychiatric Services Commission
Forest Appeals Commission
Forest Practices Board
Health Professions Review Board
Hospital Appeal Board
Independent Investigations Office
Islands Trust
Oak Bay Lodge Continuing Care Society
Office of the Premier
Oil and Gas Appeal Tribunal
Property Assessment Appeal Board
Provincial Capital Commission
Public Guardian and Trustee
Public Sector Employers' Council Secretariat
Royal BC Museum
Safety Standards Appeal Board
Surface Rights Board