

Minister of
Democratic Institutions



Ministre des
Institutions démocratiques

Ottawa, Canada K1A 0A6

The Honourable Kevin Sorenson, P.C., M.P.
Chair of the Standing Committee on Public Accounts
House of Commons
Ottawa, Ontario
K1A 0A6

Dear Mr. Sorenson:

On behalf of the Government of Canada, and in my capacity as President of the Queen's Privy Council, I am pleased to respond to the recommendations made in the Standing Committee on Public Accounts' February 2017 Report, entitled "*Report 3, The Governor in Council Appointment Process in Administrative Tribunals, of the 2016 Spring Reports of the Auditor General of Canada.*"

The Government appreciates the work of the committee, as well as the Auditor General of Canada (AG), and agrees with the recommendations made in the committee report. As you are aware, in February 2016, the Prime Minister announced an approach to Governor in Council (GIC) appointments that follows open, transparent, and merit-based selection processes and takes into consideration Canada's diversity, in terms of linguistic, regional, and employment equity representation. The Privy Council Office (PCO) has put in place a number of new processes and practices to implement the Government's approach. Specifically, PCO has provided guidance and advice to departmental officials responsible for supporting Ministers in making recommendations to the GIC.

Recommendation 1: Support for the GIC appointment process

I am pleased to report that, over the course of 2016 and 2017, PCO significantly updated its website to provide the public with more information on the GIC appointment process. Specifically, as noted in its action plan following the AG's spring 2016 report on GIC appointments in administrative tribunals, PCO posted guidance on its website regarding

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exceptions to the process requirements, such as the appointment of judges to non-judicial positions in administrative tribunals. Up-to-date Frequently Asked Questions were added as well as an updated guide providing departments with the instructions and templates required to submit Ministerial Recommendations for GIC appointments. As noted in PCO's response to the AG's report (available on the committee's website), in spring 2016, PCO, in collaboration with the Prime Minister's Office, held information sessions about the GIC appointment process, including exceptions to the requirement for an open, transparent, and merit-based selection process, for portfolio departments, organizations, and Ministers' offices. PCO continues to hold teleconferences with departmental officials responsible for GIC appointments to foster sharing of emerging and evolving information, including best practices to facilitate the Government's approach to GIC appointments.

PCO has also improved the provision of, and access to, guidance for departments regarding GIC appointments through GCconnex—an online forum for federal public servants. In spring 2017, PCO posted administrative departmental guidance on GCconnex for public servants who have been identified by portfolio departments as key points of contact for GIC appointments. Specifically, this guidance includes procedures, templates, examples, and forms (e.g., for security and due diligence checks). Furthermore, the GCconnex platform allows for collaboration between these departmental representatives; specifically, a discussion forum allows departments to ask procedural questions. Further details on how PCO has improved the provision of, and access to, guidance for departments are provided at appendix A.

Recommendations 2 and 3: Vacancies in administrative tribunals

PCO supports the Prime Minister in the application of government policy for GIC appointments, including those for administrative tribunals. While Ministers are responsible for recommending appointees, an appointment is ultimately at the discretion of the GIC, which is the Governor General acting on the advice of the Queen's Privy Council for Canada (i.e., the Cabinet). There are some exceptions to the Government's approach to GIC appointments, generally based on statutory requirements, including the appointment of sitting judges to non-judicial positions in administrative tribunals (e.g., Specific Claims Tribunal, Competition Tribunal). These selection processes are generally the responsibility of the portfolio Minister and the Minister of Justice. Judicial appointments are managed by the Minister of Justice in a separate process. In order to protect the judicial independence of judges appointed to non-judicial positions in administrative tribunals and to protect the administrative judicial independence of the courts, Ministerial recommendations for appointment by the GIC require the prior consent of both the individual judge and his or her Chief Justice.

The Government also agrees with the spirit of the committee's recommendations to improve timeliness of appointments and to develop methods within portfolio departments to incorporate succession planning for administrative tribunals. While pre-identifying persons for future appointment could be perceived as counter to the principles of open, transparent, and merit-based selection processes, PCO will implement methods for effective vacancy management. PCO will provide portfolio departments with triannual (i.e., three times per year)

vacancy reports, outlining vacancies within Ministers' portfolios for the upcoming twelve months, as well as monthly status reports on current and upcoming selection processes. These reports will support Ministers in planning for and proactively launching selection processes or, in the case of positions exempt from the Government's approach, making recommendations for timely appointments. In instances where the enabling legislation requires that a sitting judge serve as a tribunal member, the Department of Justice will ask implicated departments to send, on a triannual basis, an up-to-date list of current judges occupying positions within their portfolio, including dates of appointment and expiry of terms. Department of Justice officials will also contribute any additional information available to them in relation to the status of judges in non-judicial positions in administrative tribunals. This list will be shared with both the Minister of Justice's Office and the portfolio Minister's Office to help ensure timely notice of upcoming vacancies requiring consultations with the superior court bench. PCO will monitor this procedure.

PCO is implementing internal information management systems to help improve the timeliness of open, transparent, and merit-based selection processes, with focused attention on administrative tribunals. This includes an electronic selection process scheduling tool and an enhanced data management tool for the collection and organization of information regarding appointments, positions, and selection processes. Furthermore, following an open, transparent, and merit-based selection process within large administrative tribunals, the selection committee may, if there are a significant number of qualified candidates, establish a roster that the Minister can then use to fill similar positions within the tribunal, for a defined period of time. This will provide responsible Ministers with greater flexibility in making recommendations on GIC appointments in order to more quickly respond to the need to help manage the complement of individuals required, depending on increases or decreases in caseload in administrative tribunals.

Recommendation 4: Orientation and training for appointees

The Government agrees with making orientation and training mandatory for new appointees to administrative tribunals. PCO will inform new chairs of administrative tribunals that their attendance at the existing orientation program offered by the Canada School of Public Service for Heads of Agencies and Administrative Tribunals is mandatory. In addition, PCO will ask that chairs of administrative tribunals ensure they provide for mandatory orientation programs to new members appointed to their administrative tribunals.

In closing, I would like to thank you, as well as the committee members, for your work on this important matter. Opening the selection process for the majority of GIC positions is a transformative change. The Government welcomes the committee's important work on this issue.

Sincerely,



The Honourable Karina Gould
Minister of Democratic Institutions

Appendix A: Report to the Standing Committee on Public Accounts

The following report outlines how the Privy Council Office (PCO) has improved the provision of, and access to, guidance regarding Governor in Council (GIC) appointments.

ACTION TAKEN	STATUS
<p>PCO has provided information sessions, in collaboration with the Prime Minister's Office, about the GIC appointment process, including exemptions from the requirement for an open, transparent, and merit-based selection process, to portfolio departments, organizations, and ministers' offices.</p>	<p>Completed (Spring 2016) and ongoing.</p> <p>Five in-person sessions were held. PCO continues to hold teleconferences with departmental officials on an as needed basis. Over 20 inter-departmental teleconferences have been held as of the end of fiscal year 2016-17.</p>
<p>PCO has provided guidance to departments on which GIC positions are subject to different selection processes.</p>	<p>Introduced (Spring 2016) and ongoing.</p> <p>This information was provided to departments at information sessions in April and May 2016. This information will also be provided in the triannual (i.e., three times per year) vacancy reports provided to departments.</p>
<p>PCO has provided templates and guidance to departments to support the implementation of the approach to GIC appointments.</p>	<p>Introduced (Fall 2016) and ongoing.</p> <p>Templates, guidance, and information-sharing through an online forum for federal public servants (GCconnex).</p> <p>As of April 5, 2017, there were 78 members and approximately 60 administrative tools (i.e., templates and forms) posted.</p>
<p>PCO has posted guidance on its website.</p>	<p>Completed (February 2016) and ongoing.</p> <p>A Canada.ca webpage was created as a central repository of links to all government appointments (e.g., GIC, Senate, Ministerial, judicial, etc.). The GIC appointments website has updated information with ongoing postings of updates, guidance, and information.</p> <p>Additional guidance was posted in April 2017, which includes information on: what GIC appointments are; the Government's approach to open, transparent, and merit-based selection processes; the principles of the new approach; exceptions to the new approach; the steps to conducting a selection process; the steps in the appointment process; guidelines for GIC appointees;</p>

	communication guidance; updated frequently asked questions; and updated information on how to apply to GIC appointment opportunities.
PCO has launched a secure portal on its website where interested applicants can register, create a profile, and submit their applications to GIC opportunities.	Completed (March 2016). Detailed information on how to submit an application to GIC appointment opportunities is included in the secure portal. As of April 20, 2017, close to 13,000 applications have been submitted through the portal.
PCO updated its "Submission Guide for Governor in Council Appointments" on its website.	Completed (April 2017). The "Submission Guide for Governor in Council Appointments" provides departments with instructions and templates required to submit a Ministerial Recommendation for GIC appointments. Updates were completed to align with the Government's approach.