Public Prosecution Service of Canada
Service des poursuites pénales du Canada

Internal Audit Division

AUDIT OF VOTE-NETTED REVENUE AND COST RECOVERY
FINAL AUDIT REPORT
JUNE 9, 2011

Canada

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LIST OF ACRONYMS

AG	Attorney General of Canada *(Procureur général du Canada – PG)*
CAE	Chief Audit Executive (*Dirigeant principal de la vérification – DPV*)
CFO	Chief Financial Officer (*Dirigeante principale des finances – DPF*)
CFP	Chief Federal Prosecutor (*Procureur fédéral en chef – PFC*)
CSO	Common Service Organizations (*Organisations de services communs – OSC*)
CSP	Corporate Service Provider (*Prestataire de services généraux – PSG*)
DoJ	Department of Justice (*Ministère de la justice – MJ*)
DDPP	Deputy Director of Public Prosecutions (*Directrice adjointe des poursuites pénales – DAPP*)
DPP	Director of Public Prosecutions (*Directeur des poursuites pénales – DPP*)
DPPA	*Director of Public Prosecutions Act (*Loi sur le directeur des poursuites pénales – *LDPP)*
FAA	*Financial Administration Act (*Loi sur la gestion des finances publiques – *LGFP)*
FAD	Finance and Acquisitions Directorate (*Direction des finances et des acquisitions – DFA*)
FPS	Federal Prosecution Service *(Service fédéral des poursuites – SFP)*
FSR	Financial Situation Report (*Rapport sur la situation financière – RSF*)
HQ	Headquarters (*Administration centrale – AC*)
IAD	Internal Audit Division (*Division de la vérification interne – DVI*)
IFMS	Integrated Financial Management System (*Système intégré de gestion financière – SIGF*)
LDA	Large Departments and Agencies (*Grands ministères et organismes – GMO*)
MCF	Management Control Framework (*Cadre de contrôle de la gestion – CCG*)
MOU	Memorandum of Understanding (*Protocole d'entente – PE*)
NTP	National Timekeeping Protocol (*Protocole national de comptabilisation du temps – NNCT*)
PPSC	Public Prosecution Service of Canada (*Service des poursuites pénales du Canada – SPPC*
TBS	Treasury Board Secretariat (*Secrétariat du Conseil du Trésor – SCT*)
REPMB	Regulatory and Economic Prosecutions and Management Branch (*Direction des poursuites réglementaires et économiques et de la gestion – DPREG*)
VNR	Vote-Netted Revenue (*Recettes nettes en vertu d'un crédit – RNC*)

1.0 EXECUTIVE SUMMARY

This report presents the results of an internal audit of the Public Prosecution Service of Canada (PPSC) management control framework (MCF) for revenue management and cost recovery. The PPSC was created on December 12, 2006 with the coming into force of the *Director of Public Prosecutions Act* (DPPA), Part 3 of the *Federal Accountability Act*. The PPSC is an independent prosecution service, whose main objective is to prosecute offences under federal statutes in a manner that is independent of any improper influence and that respects the public interest.

The PPSC funds its operations through a hybrid of appropriated funds, and respendable revenues arising from the provision of prosecution and prosecution-related services to Government departments and agencies. Its special revenue respending authority is $11.3 M. This authority presently allows the PPSC to use revenues to finance directly related expenditures in the same fiscal year. This authority is referred to as vote-netted revenue (VNR). The PPSC also verified approximately $5.5 million in legal costs and disbursements during 2009/10 from its Crown Agents who conducted regulatory and economic prosecutions on behalf of other federal organizations that pay for the Agent's prosecution services directly. The PPSC inherited this funding model upon its inception on December 12, 2006 from its predecessor organization, the Federal Prosecution Service (FPS), which was a branch of the Department of Justice (DoJ). From the outset, the PPSC has sought to replace its VNR funding model with a statutory-based appropriation model.

It should be noted that the basic working assumptions of the Common Services Policy do not accord with basic principles of prosecutions. In enacting the DPPA and creating the PPSC, Parliament sought to enshrine in legislation the well established constitutional principle of the independence of the prosecution function. Although the PPSC is accountable to Parliament and reports to it annually through the Attorney General of Canada (AG), it conducts federal prosecutions in accordance with this constitutional principle. Thus the PPSC provides its prosecution services on behalf of the Crown, and not on behalf of a federal department or agency, or a police force. Once the police or the investigative agency lays a charge, the PPSC will prosecute on behalf of the Crown, if the PPSC is satisfied that the evidence gathered by the police or investigative agency is sufficient and a prosecution is in the public interest. The PPSC may, and often does, consult with the police or investigative agency regarding the evidence and public interest criteria in making its decision to prosecute. However, it determines independently whether and how the prosecution will be conducted and whether and how it will be terminated. Thus, the PPSC does not receive instructions with respect to any aspect of the conduct of a prosecution. Indeed, the role of a prosecutor in conducting prosecutions has been recognized by our courts as being quasi-judicial in nature.

Senior managers responsible for VNR and cost recovery in the PPSC requested that the Internal Audit Division (IAD) undertake an audit of revenue and cost recovery. They had identified problems with the existing system and wished to have assistance from the IAD to identify any further issues related to control, governance and risk management; and to provide recommendations for corrective action. Senior management also saw the audit as an opportunity in moving towards a long-term funding strategy for the organization. As a result, the audit was included as a high risk area in the organization's initial Risk-Based Audit Plan.

1.1 AUDIT OBJECTIVE AND SCOPE

The overall objective of the audit was to review and assess the adequacy and appropriateness of the existing MCF for revenue management and cost recovery, and to provide assurance that the revenue and cost recovery activities of PPSC occur in an effective manner while maintaining the required level of control.

The audit scope included interviews with personnel from the Finance Directorate (at Headquarters [HQ]), the Regulatory and Economic Prosecutions and Management Branch (REPMB) (at HQ), Regional prosecution staff including, Chief Federal Prosecutors (CFP), iCase administrators, and financial staff of the Corporate service provider (CSP) in both HQ and regional offices. Procedures, guidelines and practices were examined, as well as the monitoring and reporting mechanisms in place. Finally, the audit examined financial and timekeeping data and a sample of the revenue transactions from the 2009-10 fiscal year. The audit was conducted between September 2010 and March 2011.

1.2 AUDIT CONCLUSION

In this audit the IAD examined the PPSC revenue management framework. The audit team noted that PPSC is challenged by its current funding model, as well as by its relationships with certain concerned departments and agencies. From the outset of its creation, the PPSC has sought to replace its funding model with a statutorily based appropriation model in order to ensure that its funding is consistent with its prosecutorial independence. The PPSC is currently working with the Treasury Board Secretariat (TBS) to achieve a more appropriate funding model.

Until such time as VNR can be replaced by a more suitable source of funding for prosecution services, the general conclusion is that the PPSC's MCF for revenue management and cost recovery needs to be strengthened in order to improve the revenue process and control weaknesses observed for the period under review. The overall control framework needs to be enhanced, specifically in the areas of practices and procedures, governance and oversight, roles and responsibilities, monitoring and reporting.

The Chief Audit Executive (CAE) has requested that the Chief Financial Officer (CFO) and the Deputy Director of Public Prosecutions (DDPP), REPMB, jointly prepare an action plan to address the recommendations contained in this report. The management action plan is located in section 5 of the report. In six to twelve months, the CAE will follow-up with the CFO and the REPMB to ensure that the management action plan has been implemented or is sufficiently underway.

1.3 SUMMARY OF FINDINGS AND RECOMMENDATIONS

What the audit team considers to be the most significant findings and recommendations are summarized below. Detailed findings and recommendations are included in section 3 of this report.

As long as the organization continues to rely on VNR as a source of funding, the PPSC has opportunities to improve the effectiveness of its revenue management framework. The implementation of the following recommendations will guide the PPSC toward more robust revenue management policies and procedures. A list of all recommendations relating to this audit and management response to the recommendations can be referenced in section 5 of this report.

Independence & Funding Model

The funding authority and applicability of the Common Service Policy remains a challenge to PPSC in its delivery of services and recovery of revenues. IAD observed that certain departments refuse to pay for prosecution services.

- *The CFO, in consultation with the DPP, should initiate discussions with TBS to address the funding model and the applicability of the Common Services Policy.*

Memorandums of Understanding and Service Level Agreements with Client Departments

There are relatively few comprehensive Memorandum of Understanding (MOU) agreements with departments and agencies which address payment terms, or expectations, terms and conditions regarding cost recovery (e.g. invoicing frequency, what work is to be cost recovered, recoverable amounts related to disbursements, etc.)

- *The DDPP, REPMB, should develop standard terms for MOUs that address the PPSC's independent mandate, statements of services, notification of new files, billing, and addressing billing disputes, and that MOUs including these terms be adopted where possible for each client department or agency.*

Departmental Policies and Procedures

There is a need to standardize and document policies and procedures at PPSC for staff to support a consistent approach to cost recovery across all regions and HQ. Currently, procedures and internal controls vary from region to region as well as at HQ.

- *The CFO, jointly with the DDPP, REPMB, should develop standardized policies and procedures for VNR that are tailored to PPSC regional and HQ operational and financial processes.*

Oversight and Governance

The revenue management framework needs to be strengthened to ensure a consistent approach to revenue and cost recovery collected, and to ensure adequate and appropriate oversight, monitoring and reporting at both a corporate and regional level.

- *The CFO, jointly with the DDPP, REPMB, should strengthen its revenue management framework by reviewing and enhancing roles and responsibilities, as well as key policy and procedural requirements for regional operations and HQ. Consideration should be* *given to establishing a joint Finance and Regulatory and Economic Prosecutions committee for planning and monitoring revenue management.*

Monitoring and Reporting

Management should increase its review of sufficient and timely information (unpaid accounts, monthly statements, etc) to understand/challenge/address issues with cost recovery.

- *The CFO should enhance and strengthen financial billing processes and controls in order to ensure a timely reconciliation of the iCase and Integrated Financial Management System (IFMS) reporting systems.*

- *The CFO should strengthen the financial reporting and risk-based performance reporting to senior management that includes key performance indicators such as billed and unbilled time in iCase, unpaid accounts, and disputed accounts.*

Timekeeping, File creation and Quality review

PPSC quality review practices and controls for timekeeping, file creation and billings need to be strengthened.

- *The DAPP, REPMB, should improve and standardize acceptance criteria and file creation procedures to strengthen the accuracy and completeness of billing information on recoverable files at the initiation stage of a case.*

- *The CFO should develop processes and controls to detect time being recorded in iCase but not billed, and strengthen year end cut-off procedures to accurately record billings to March 31, as well as each quarterly billing period.*

- *The DAPP, REPMB, jointly with the CFO, should increase quality review procedures prior to the release of billing statements.*

Billing and Invoicing Processes

Headquarters guidance and oversight should be increased to ensure a consistent national approach to billings and period end financial controls.

- *The CFO should develop a standardized approach and procedures that consolidate and report regionally and centrally managed billing results.*

1.4 STATEMENT OF ASSURANCE

In my professional judgment as the PPSC Chief Audit Executive (CAE), sufficient and appropriate audit procedures have been conducted and evidence gathered to support the accuracy of the conclusion provided and contained in this report. The audit findings and conclusion are based on a comparison of the conditions, as they existed at the time of the audit, against pre-established and approved audit criteria that were agreed upon with PPSC management. The findings and conclusion are applicable only to the entity examined. The audit was planned and conducted to be in accordance with the Internal Auditing Standards for the Government of Canada.

I wish to express my appreciation for the cooperation and assistance afforded to the audit team by PPSC and the Corporate Service Provider management and staff at headquarters and in the regional offices. We would also like to thank our colleagues from Interis Consulting Inc. who were an integral part of the audit team.

Philip Morton
Chief Audit Executive

2.0 INTRODUCTION

2.1 BACKGROUND

2.1.1 Creation of Public Prosecution Service of Canada

The Office of the Director of Public Prosecutions, whose applied name is the Public Prosecution Service of Canada (PPSC), was created on December 12, 2006 with the enactment of the *Director of Public Prosecutions Act* (DPPA).

The PPSC was created by transforming a former branch of the Department of Justice (DoJ), the Federal Prosecution Service (FPS), into an independent prosecution service. Given the speed with which the PPSC was created, no separate formal funding structure was created and it continues to be funded much as the FPS was under the DoJ.

2.1.2 Mandate

The Director of Public Prosecutions (DPP) is mandated to perform the statutory responsibilities set out under the DPPA under and on behalf of the Attorney General of Canada (AG). These statutory responsibilities relate to the performance of powers granted to the AG by Parliament under the *Criminal Code* and other federal statutes. These powers, confirmed in the DPPA, include, amongst others, the power to initiate and conduct prosecutions, to provide advice to investigative agencies on general matters relating to prosecutions and on particular investigations that may lead to prosecutions, and to make prosecution policy.

The DPP employs federal prosecutors and retains private lawyers to act as agents to perform the duties and functions assigned to him under the DPPA. The DPPA precludes any other federal department or agency from conducting the prosecution itself. (The AG has the power to assume conduct of a prosecution under the DPPA, and the prosecution would then be conducted by the DoJ. To date, the AG has not exercised this power.)

2.1.3 Funding of PPSC

The PPSC funds its operations through a hybrid model of appropriated funds, and respendable revenues arising from the provision of prosecution and prosecution-related services to Government departments and agencies. Its special revenue respending authority is $11.3 M. This authority presently allows the PPSC to use revenues to finance directly related expenditures in the same fiscal year. This authority is referred to as Vote-Netted Revenue (VNR). The PPSC also verified approximately $5.5 million in legal costs and disbursements during 2009/10 from its Crown Agents who conducted Regulatory and Economic Prosecutions on behalf of the other federal organizations that pay for the Agent's prosecution services directly. The PPSC inherited this funding model upon its inception on December 12, 2006 from its predecessor organization, the FPS, which was a branch of the Department of Justice (DoJ). From the outset, the PPSC has sought to replace its VNR funding model with a statutory based appropriation model.

In March 2007, the Treasury Board Secretariat (TBS) approved the DoJ's hybrid funding model, the management framework, the setting of rates and the service level standards related to the provision of legal services across Canada. The PPSC is applying the same hybrid funding model for the provision of prosecution and prosecution related services in order to apply a consistent rate across government and for all types of legal services delivered to other government departments and agencies from the legal community.

Unlike the DoJ whose Net Voting Authority revenues represent more than a third of its budget, the PPSC funding is primarily appropriated (about 92%). Most of the appropriated funding is earmarked for prosecutions related to the *Controlled Drugs and Substances Act*, and to the *Criminal Code* in the North. While part of the DoJ, the FPS cost recovered a small portion of prosecution services in accordance with the Common Services Policy. These services are often referred to as "regulatory prosecutions" but in essence, consist of prosecution services that do not relate to the *Controlled Drugs and Substances Act*, and to the *Criminal Code* in the North, and include such areas that range from war crimes, counter-proliferation, human smuggling and trafficking, environmental, fisheries, intellectual property, bankruptcy, transportation of dangerous goods, competition law offences, to National Capital Commission parking offences.

2.1.4 Cost Recovery and Vote-Netted Revenue

In October 2006, TBS approved the establishment of a Net Vote authority of $11,342,000. In 2011/12, the authority will increase to $13,742,000 largely due to increases in staff costs as a result of collective agreements. At the time of the PPSC's creation, approximately $7.7 million of appropriated funding in respect of other government organizations was permanently transferred from the DoJ (Tax Law Portfolio and the Business and Regulatory Law Portfolio) to the PPSC.

The VNR is subject to the TBS Policy on Special Spending Authorities. This policy requires departments to establish policies and procedures to ensure that a control mechanism is in place so that the net dollar amount (expenditures-revenues) approved by Parliament is not exceeded and that only the revenues associated with costs incurred within net-voted activities are applied towards these costs.

Annually, the PPSC seeks TBS approval for the service rates for the provision of prosecution and prosecution-related services via a Treasury Board submission with the DoJ. The PPSC is applying the recommended funding model established by DoJ and is therefore charging the same rates for non-appropriated mandatory legal services to Government Departments and Agencies. The service rates are established in accordance with the TBS Common Services Policy for mandatory legal services not funded by appropriation.

2.1.5 Management Issues with the PPSC's Current Funding Model of Vote-Netted Revenues

The constitutionally required and legislatively recognized prosecutorial independence does not accord with the essential premises of the Common Services Policy, namely, that the service provider provides a service at the request of the client, and the client has some say over how the service is provided by the common service organization (see s. 5 and Appendix A of the Policy). In enacting the DPPA and creating the PPSC, Parliament sought to enshrine in legislation the well established constitutional principle of the independence of the prosecution function. Although the PPSC is accountable to Parliament and reports to it annually through the AG, it conducts federal prosecutions in accordance with this constitutional principle. Thus the PPSC provides its prosecution services on behalf of the Crown, and not on behalf of a federal department or agency, or a police force.

Once the police or the investigative agency lays a charge, the PPSC will prosecute on behalf of the Crown, if the PPSC is satisfied that the evidence gathered by the police or investigative agency is sufficient and a prosecution is in the public interest. The PPSC may, and often does, consult with the police or investigative agency regarding the evidence and public interest criteria in making its decision to prosecute. However, it determines independently whether and how the prosecution will be conducted and whether and how it will be terminated. Thus, the PPSC does not receive instructions with respect to any aspect of the conduct of a prosecution. Indeed, the role of a prosecutor in conducting prosecutions has been recognized by our courts as being quasi-judicial in nature.

2.1.6 Administration of Vote-Netted Revenue

While the PPSC is an independent organization, it relies in part on another government department as its corporate service provider (CSP). The PPSC acquires some of its transactional corporate services through a Memorandum of Understanding (MOU) in areas such as finance, human resources, information management, information technology, administration, and library. Responsibilities for administering VNR and Cost Recovery in the organization are shared by the Finance and Acquisitions Directorate (FAD) at headquarters (HQ), the Regulatory and Economic Prosecutions and Management Branch (REPMB) (at HQ), Regional prosecution staff including iCase administrators, and financial staff of the CSP in both HQ and regional offices.

2.1.7 Reason for Audit

Senior managers responsible for VNR and cost recovery in the PPSC requested that the Internal Audit Division (IAD) undertake an audit of revenue and cost recovery. They had identified problems with the existing system and wished to have assistance from the IAD to identify any further issues related to control, governance and risk management; and to provide recommendations for corrective action. Senior management also saw the audit as an opportunity to move towards a long-term funding strategy for the organization. As a result, the audit was included as a high risk project in the organization's initial Risk-Based Audit Plan.

In addition, the PPSC was selected in 2010-11 to participate in the Office of the Comptroller General's horizontal audit of CSO and TBS to review compliance with the requirements of the TBS Common Services Policy in Large Departments and Agencies (LDA). The IAD is conducting fieldwork related to the PPSC in support of the horizontal audit.

2.2 OBJECTIVES AND SCOPE

The overall objective of the audit was to review and assess, using a risk-based approach, the adequacy and appropriateness of the existing management control framework for revenue management and cost recovery, and to provide assurance that the revenue and cost recovery activities of PPSC occur in an effective manner while maintaining the required level of control.

In particular, the audit examined:

- the management and governance structure, including roles and responsibilities, accountabilities, procedures, controls and communications for revenue management and cost recovery;
- policies and procedures that form part of the cost recovery framework;
- revenue and cost recovery plans, budgets and forecasts including strategies, measurable objectives and reporting and monitoring activities;
- the appropriateness and existence of the processes for consulting, communicating and settling disputes with investigative agencies and federal departments using PPSC services and
- the appropriateness and existence of MOUs with client departments, including performance and service level standards and financial terms.

The audit did not include the costing methodology and rate structure for legal services, as the PPSC is committed to using the rates approved by TBS that are established in conjunction with the DoJ.

The audit scope included interviews with personnel from the FAD (at HQ), the REPMB (at HQ), regional prosecution staff including, Chief Federal Prosecutors (CFP), iCase administrators, and financial staff of the CSP at both HQ and regional offices. Procedures, guidelines and practices were examined, as well as the monitoring and reporting mechanisms in place. Finally, the audit examined financial and timekeeping data and a sample of the revenue transactions from the 2009-10 fiscal year.

The audit was conducted between September 2010 and March 2011.

2.3 METHODOLOGY

2.3.1 Planning

The planning phase consisted of obtaining and documenting background information to gain an understanding of the revenue management and cost recovery guidelines and processes taking place within the PPSC; the development of an audit program; initial meetings with key PPSC personnel; the review and analysis of billings and revenue data; the development of audit objectives and scope, as well as audit criteria and methodology. A Terms of Reference document was developed and shared with the auditees at the conclusion of the planning phase.

2.3.2 Conduct Phase

The conduct phase included the review and analysis of documentation and processes used for revenue management, including roles, responsibilities and accountabilities, monitoring, and risk management practices. Interviews were conducted with officials from PPSC Headquarters and the regions (BC, Quebec, Atlantic) and with financial officers from the CSP. The audit team also assessed whether systems, controls and practices in place were in line with the *Financial Administration Act* (FAA) and TBS policies related to revenue management.

2.3.3 Reporting Phase

Throughout the audit, observations and findings were confirmed with the REPMB and the FAD. The IAD met with both groups for formal debriefing sessions to validate the preliminary audit findings. A draft report was sent to the DPP, the CFO, and the DDPP, REPMB.

3.0 OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations are structured around audit criteria derived from government policies and regulations pertinent to revenue management and cost recovery. In particular, this section presents observations on the effectiveness of the Authority to Generate Revenues, the MCF, and Compliance with Revenue Policies.

3.1 AUTHORITY TO GENERATE REVENUES

The PPSC is applying the funding model established by DoJ prior to the creation of the PPSC. The organization has faced challenges in establishing its authorities to recover revenues with concerned departments and agencies since it became independent, and the current funding model is not fully embraced by the PPSC's management.

From the outset of its creation, the PPSC has sought to replace its VNR funding model with a statutorily based appropriation model in order to ensure that its funding is consistent with its prosecutorial independence. However, until VNR is replaced, the organization would benefit by having MOUs with additional concerned departments or agencies to clarify terms and service level expectations.

3.1.1 INDEPENDENCE & FUNDING MODEL

The funding authority and applicability of the common service policy remains a challenge to PPSC in its delivery of services and recovery of revenues. IAD observed that certain departments refuse to pay for prosecution services.

Criterion: Requirements of policies are developed, in consultation with client departments and agencies; meaningful and visible standards of service and performance for the delivery of mandatory services are in place.

As noted, the PPSC funds its operations through a combination of appropriated funds and respendable revenues. This authority allows the PPSC to use revenues to finance directly related expenditures in the same fiscal year. We observed over the course of the audit that the authority to recover revenues remains a challenge for the organization, as certain departments have challenged on principle PPSC's authority to bill for mandatory services or their department's obligation as a concerned agency to cover the cost of prosecutions. It was further noted there is uncertainty surrounding the applicability of the Common Services Policy as, unlike the DoJ, the PPSC is not named in the Policy as a Common Service Organization (CSO). However, TBS considers that the PPSC is a CSO and that the PPSC must follow the requirements for mandatory services with appropriation based funding and cost recovery.

Although the documentation regarding the creation of the PPSC and its initial funding model defines broadly the authority for Net vote and appropriated based funding, it contains no reference to which departments or agencies will be on a cost recovery basis, which will be funded by appropriation, or how to handle challenges to this funding model or any disputes arising from concerned departments or agencies. Management provided the audit team with numerous examples of disputed payments that they felt were primarily due to this lack of clarity. This has resulted in some departments and agencies either refusing to pay or reluctantly paying for PPSC prosecution services which creates instability for the PPSC.

We understand that PPSC, in consultation with central agencies, will examine options for moving toward a funding model and strategy that would eliminate the need for cost recovery.

Recommendation:

1. *The CFO, in consultation with the DPP, should initiate discussions with TBS to address the funding model and the applicability of the Common Services Policy.*

3.1.2 MEMORANDUMS OF UNDERSTANDING AND SERVICE LEVEL AGREEMENTS WITH CLIENT DEPARTMENTS

There are relatively few comprehensive MOU agreements with departments and agencies which address payment terms, or expectations, terms and conditions regarding cost recovery (e.g. invoicing frequency, what work is to be cost recovered, recoverable amounts related to disbursements, etc.)

Criterion: MOUs are in place with client departments that include financial terms, service levels and provision for appropriation based services and revenue recovery.

MOUs are implemented to provide clear understanding of the PPSC and the concerned department's roles and responsibilities as an investigation and prosecution proceeds under the various applicable Acts of their department. In addition, MOUs act as a communication vehicle for each organization so that prosecutors, paralegals, managers and support staff are aware of the principles. Financial terms generally support MOUs and outline the expectations with respect to financial billing and settlement. Given that PPSC acts as the independent prosecutor for concerned departments and agencies in administration of their acts, we expected to see documented financial terms, particularly in light of the hybrid funding model the PPSC deploys.

There are currently only four (4) MOUs in place with concerned departments or agencies. Of these, only one (1) MOU includes clauses relating to funding and invoicing albeit in very general terms. Other MOUs did not include business and financial terms. However, we did observe that the Corporate Counsel's office has started to draft a "Framework Agreement for Client Driven Services" that includes service plans and financial terms.

In the absence of standard MOUs, we observed the following areas of risk:

- ***Communication with Concerned Agencies:*** Communication is ad hoc and typically very little is in writing, with the exception of two large departments.

- ***Financial Terms:*** Estimated total costs to be charged by PPSC to departments (including those offset by appropriated budgets) are not clearly communicated to concerned departments in a fully transparent and comprehensive manner. Procedures vary by region and at HQ. PPSC informs concerned department Deputy Heads and CFOs of the rates, but does not provide sufficient detailed information of anticipated costs on a regular basis.

- ***Standard terms:*** Existing MOUs are developed independently by each legal group. There is no branch responsible for common terms. There are no established or approved service delivery levels with respect to cost recovery/revenues collected, although some efforts have been made to move towards establishing them.

Recommendation:

2. *The DDPP, REPMB, should develop standard terms for MOUs that address the PPSC's independent mandate, statements of services, notification of new files, billing, and addressing billing disputes, and that MOUs including these terms be adopted where possible for each client department or agency.*

3.2 MANAGEMENT CONTROL FRAMEWORK

Until VNR is replaced with a more convenient and stable source of funding, the PPSC MCF governing the VNR and cost recovery processes needs to be strengthened as it is not well documented within the organization. Financial and operational control processes need to be improved to provide for a robust control environment to manage revenues effectively.

3.2.1 DEPARTMENTAL POLICIES AND PROCEDURES

There is a need to standardize and document policies and procedures at PPSC for staff to support a consistent approach to cost recovery across all regions and HQ. Currently, procedures and internal controls vary from region to region, as well as at HQ.

Criterion: Policies, procedures and guidelines are communicated to the appropriate people on a timely basis.

Detailed written directives and procedures for revenue management processes are essential. Documented practices provide a link between an organization's goals and objectives and its day-to-day operations. A lack of documented procedures increases the risk of errors that could result in unrecovered revenue and inefficient operations. Written procedures are also beneficial for the training of current and new employees, and are a valuable resource in the event that an employee leaves the organization. Procedures should include sufficient information to permit an individual who is unfamiliar with the operations to adequately perform his/her role and responsibilities within predefined limits. Interviews with PPSC management and administrative support personnel identified inconsistent billing and revenue management practices.

PPSC FAD is responsible for writing and communicating directives, procedures, and for providing policy interpretation and expert advice on financial management matters. They may write directives or procedures to further clarify TBS policies. New and updated policies, directives and procedures are issued by the FAD through e-mail notices or Finance Bulletins and are posted in the PPSC Intranet. In addition, the AG and the DPP are responsible for issuing general prosecution policies.

The PPSC applies the approach and follows the practices and procedures of its CSP that are based on the TBS Policy on Special Revenue Spending Authorities, Directive on Receivable Management, the TBS Common Services Policy and on the FAA. The PPSC has not developed a departmental directive relating to revenue management and VNR. Other than the National Timekeeping Protocol (NTP) and basic procedures that some regions have developed and implemented on their own, PPSC managers and administrative support staff do not have standardized procedures to reference for VNR that are integrated with policies to provide guidance for the processing and approval of billings and invoices.

The audit observed that revenue management practices and internal controls have not been adequately documented for the following key controls:

- Invoicing to ensure all time is captured ;

- Quality review of invoices;
- Period-end cut-off procedures; and
- Recovery, disputes and follow-up.

Implementing directives and procedures to improve the above controls would greatly reduce the risk of recoverable time not being invoiced, and ensure that billable time is recorded accurately and completely to timely capture and record revenues.

The absence of relevant documented procedures, systems and controls has resulted in inconsistencies in the administration of revenue management. Specifically, it is a contributing factor to not recovering all revenues from concerned departments and other irregularities found in the processing of time and preparation of billings across the PPSC that are discussed throughout this report.

Recommendation:

3. *The CFO, jointly with the DDPP, REPMB, should develop standardized policies and procedures for VNR that are tailored to PPSC regional and HQ operational and financial processes. - Recommendations to address these procedural issues are outlined in the specific sections of the report where they are discussed in detail.*

3.2.2 OVERSIGHT AND GOVERNANCE

The revenue management framework needs to be strengthened to ensure a consistent approach to revenue and cost recovery collected, and to ensure adequate and appropriate oversight, monitoring and reporting at both a corporate and regional level.

Criterion: Senior Management reviews timely information on revenue management and cost recovery for decision making. Operating objectives and priorities exist for all key activities, are documented and linked to strategic objectives and priorities.

Although the organization is not specifically mentioned in the TBS Common Services Policy, the PPSC is generally recognized as providing mandatory services under the policy. It is funded through appropriation and by cost-recovery through net voting authority. As noted in the Department's 2010/11 Report on Plans and Priorities, the PPSC has authority to recover costs for legal services provided to federal investigative agencies. However, it further states that the PPSC in consultation with central agencies, proposes to examine options for moving towards a funding model that would eliminate the need for cost recovery. It is our understanding that there has been limited progress or ongoing guidance from TBS for revenue recovery disputes and funding model challenges. It is in this context that PPSC operates.

We also observed that there is an absence of integrated planning, monitoring and oversight of revenue management by senior management. Revenue loss and billing issues that occur in a region or HQ are not well communicated and acted upon in a coordinated manner. Without a sound revenue management framework, there is a risk that the PPSC will be unable to ensure that a consistent, rational approach to revenues and cost recovery is implemented, as well as supported by adequate and appropriate oversight, monitoring and reporting at both the corporate and regional level.

Recommendation:

4. *The CFO, jointly with the DDPP, REPMB, should strengthen its revenue management framework by reviewing and enhancing roles and responsibilities, as well as key policy and procedural requirements for regional operations and HQ. Consideration should be given to establishing a joint Finance and Regulatory and Economic Prosecutions committee for planning and monitoring revenue management.*

3.2.3 ROLES AND RESPONSIBILITIES

Corporate-wide roles and responsibilities for cost recovery and revenue are not documented, with the exception of general processes for timekeeping. Responsibilities vary from Region to Region as well as at HQ for invoicing, timekeeping, and revenue collection processes.

Criterion: The roles and responsibilities of the parties involved should be clearly stated and well communicated.

Clearly stated and well communicated roles and responsibilities are essential in ensuring accountability and ownership. At the PPSC, revenue management is a shared responsibility of HQ personnel from FAD and the REPMB, as well as Chief Federal Prosecutors (CFP) and prosecution staff in the regions. Furthermore, financial personnel from the CSP at both HQ and in the regions provide support to the PPSC. Roles and responsibilities between PPSC and CSP for related administration items which CSP performs on behalf of PPSC are not clearly documented or consistently applied in each region.

The level of authority required for the administration of MOU and Cost Recovery Arrangements is outlined in the PPSC's Delegation of Authority Chart. Under this authority, designated officials may sign MOUs or similar contractual arrangements with other government departments, Crown entities and other organizations, to recover expenditures initially incurred by PPSC. Client Services Agreements with concerned departments and agencies for legal services may be initiated and signed by delegated officers, including CFPs, Director Generals, and the CFO. However, we observed there are few MOUs or contractual arrangements in place and a lack of formal agreements with concerned departments for billing and invoicing. Also, there is minimal oversight of invoices as there is no definition in the Delegation of Authority Chart for approving bills and invoices.

Given the shared responsibilities among decentralized organizational units within PPSC and the CSP, roles and responsibilities need to be well defined and documented to ensure proper administration of the revenue management function.

Recommendation:

5. *The CFO, jointly with the DDPP, REPMB, should ensure that roles and responsibilities for staff engaged in the recording and management of billing and collection of revenues from concerned departments are properly documented, communicated, periodically reviewed, and comply with applicable TBS policies.*

3.2.4 MONITORING AND REPORTING

Management should increase its review of sufficient and timely information (unpaid accounts, monthly statements, etc) to understand/challenge/address issues with cost recovery.

Criterion: An effective regime is in place to actively monitor and report the state of management practices and controls for transaction processing and revenue management.

Monitoring is described in the TBS Directive on Receivables Management as the activities that the CFO establishes to oversee the implementation of the Directive in the department. These activities should enable the CFO to bring to the attention of the DPP any significant difficulties, gaps in performance or compliance issues and develop proposals to address them, and reporting significant performance or compliance issues to the Office of the Comptroller General. Monitoring should also assist the CFO in reporting significant compliance issues to the CFPs and senior managers.

Internal controls are described in the TBS Directive on Receivables Management to include a CFO's responsibility to ensure internal controls for the administration of accounts receivable are established, are in place and include, at a minimum:

- the appropriate division of duties related to credit-granting, collections, maintenance of accounting records, the handling and reconciling of money, and write-offs;
- the provision of complete audit trails to track all claims from the transaction that gave rise to the receivable through to its final settlement;
- the establishment and monitoring of results-based measurement mechanisms; and
- the preparation and distribution to management of periodic reports on the financial and non-financial activities of the portfolio, including receivable ageing statements.

Our audit observations on each of these internal controls follow:

Segregation of duties - We observed that there is a segregation of duties between Finance and Acquisitions, and REPM branches. However, there is minimal oversight and validation conducted as to the accuracy and completeness of the invoices sent to concerned departments and agencies. As described in section 3.2.3, roles and responsibilities are not adequately defined for revenue management, therefore consideration should be given to designing appropriate segregation of duties when implementing the audit recommendations.

Completeness of revenue audit trails – PPSC relies on the time capture system (iCase) and the financial system (IFMS) to generate and track invoices. We observed that financial reporting risks are higher than normally expected, as the control environment in iCase is inadequate to ensure all recoverable time is accurately recorded and subsequently invoiced. As well, the financial system is not configured with an accounts receivable function, nor integrated with iCase. Currently, each region has a manual process of using spreadsheets to track time recorded against revenue collected in the financial system, but these individual processes are not monitored or consolidated centrally. Consequently, current practices result in revenues not being recorded in the financial system when work is completed. Lastly, there is a general absence of controls between these two key systems to test the completeness of billings and collections.

Monitoring - There is a lack of internal monitoring designed to track and report revenue management issues on a monthly or quarterly basis to senior management. Also, there are no procedures, guidelines or reporting mechanisms which provide sufficient information to detect problem areas or details on the status of problem files, disputed revenues and cost recoveries at risk. In 2009-10, approximately $2.8 million of prosecution revenues was not recovered. A similar shortfall of $1.5 million was not recovered in 2008-09. We observed that corrective actions were taken by management for year-end 2010-11 to ensure that this shortfall is mitigated in subsequent years.

Periodic financial and non-financial reporting - Financial Situation Reports (FSR) are prepared monthly (beginning in August) by each region, consolidated at HQ by FAD, and reported to senior management. FSRs are primarily a budget and expenditure management report. The monthly FSRs present revenue forecasts starting in the second quarter of the fiscal year and present revenue forecasts based on time incurred to date and forecasted to the end of the fiscal year, as well as current recoveries.

We expected to find periodic reporting on revenue management to provide additional revenue management information related to costs that have and have not been billed (e.g. work in process), unrecoverable amounts, amounts in dispute, and ageing of accounts receivable. This was not the case. As well, there was an absence of commentary on variances, emerging trends related to activity levels, billings and collections.

In summary, enhancements to controls over monitoring and reporting would ensure that the PPSC increases the effectiveness of its revenue management function, as well as providing more accurate information to management on a timely basis.

Recommendation:

6. *The CFO should enhance and strengthen financial billing processes and controls in order to ensure a timely reconciliation of the iCase and IFMS reporting systems.*

7. *The CFO should strengthen the financial reporting and risk-based performance reporting to senior management that includes key performance indicators such as billed and unbilled time in iCase, unpaid accounts, and disputed accounts.*

3.2.5 BUDGETING AND FORECASTING

The process for reporting and monitoring forecasted revenues against budgeted appropriations and VNR is not robust and well understood in the regions. As well, the process for communicating and managing billings with concerned departments and agencies is not well established.

Criterion: Appropriation based funding is properly allocated and revenues are monitored on a timely basis against expenditures incurred.

The TBS Policy on Special Revenue Spending Authorities states "All resource allocation decisions must focus on an activity's net dependence on appropriations. Net voting explicitly links the revenue and expenditure sides of the ledgers in such a way that program managers must manage not only their expenditure budget but also the related revenues. With net voting, they cannot spend the monies they do not receive; thus it encourages management to take a more business-like approach."

Since its inception as an independent organization in 2006, the PPSC inherited a "hybrid" model to fund the provision of Regulatory and Economic prosecution services. This hybrid model entails a mix of appropriated funding and recoveries from departments and agencies, crown corporations and non-federal organizations. The original appropriations budget was created when PPSC was established by reallocating relevant portions of the DoJ budget. Appropriations budgets have been allocated to the original concerned department that they each related to. FAD then allocated appropriations to Regions and HQ based on budgeted activity levels that existed at the time. Responsible ministries are invoiced for prosecution services only when their static appropriation budget allocation has been fully absorbed. Departments and agencies without original appropriation allocations are invoiced 100% of costs to be recovered through the VNR authority. As well, since this allocation is static by concerned department, it is not adjusted to current PPSC priorities and workload. Furthermore, the PPSC is not always funded for prosecutions related to new legislation. Decisions regarding the allocation of the appropriated budget and invoicing once the budget is used are not well documented or rationalized.

In 2009/10 regulatory and economic prosecutions were funded by appropriations of $7.6 million and VNR spending authority of $11.3 million to cover salary and operating costs. This resulted in a funding shortfall of approximately $2.7 million on total Regulatory and Economic Prosecution expenditures of nearly $22 million. (see Table 1 and Table 2)

Table 1

Cost Recovery Financial Summary 2009-2010	
iCase total recoverable time * (as at Nov 28, 2010)	$ 21,597,409
Appropriated funding	7,682,899
VNR Recoveries (IFMS)	11,151,114
Variance	$ (2,763,396)

** This does not include $4,000,000 of non-recoverable time that was miscoded as recoverable.*

Table 2

PPSC Actual Spending 2009-2010*	
Drug, *Criminal Code*, and Terrorism prosecutions	$108,100,000
Regulatory and Economic prosecutions	17,800,000
Internal Services	21,100,000
Total PPSC Spending	$147,000,000
Surplus related to operations	$ 12,200,000

* Source 2009-2010 PPSC Annual Report

We understand that each year, PPSC has spent more on regulatory and economic prosecutions than the total of its appropriations and VNR collected. As noted in this report, this variance is partially attributed to the lack of robust revenue management and cost recovery from concerned departments. Spending and revenues are treated independently with respect to regulatory and economic prosecutions. In other words, PPSC does not appear to be dependent on the revenues it generates to determine its spending with respect to regulatory and economic prosecutions. The DPP has a mandate to conduct all prosecutions that are in the public's interest, notwithstanding the source of funding.

We observed that there have been several instances of disputed accounts with other government departments. In many cases, there does not appear to be clear communication from the PPSC to concerned departments and agencies of legal services to be recovered through drawdown of appropriated funds or direct invoice. For example, a department may receive an invoice at year-end for a prosecution of which they had no prior knowledge because they were not the investigative agency who laid the charge resulting in the prosecution. This can pose challenges to these concerned departments and agencies to plan and commit funds each quarter to ensure that they have funds to pay any prosecution expenses as the year progresses. This also places additional financial risk on the PPSC.

In conclusion, the planning, budgeting and forecasting approach is based solely on a historical allocation, and there is a risk that it may not be sustainable over time.

Recommendation:

8. *The CFO should design and develop a more robust appropriation budget and revenue management forecasting and monitoring process by responsible ministry that aligns with current PPSC Regulatory and Economic priorities and resource allocations within the context of the PPSC's hybrid funding model.*

9. *The CFO, in consultation with the DDPP, REPMB, should develop a more transparent billing, forecasting and reporting process with concerned departments to ensure that they are aware of their financial obligations to the PPSC on a more timely basis.*

3.2.6 RISK MANAGEMENT

There is limited risk reporting to management of non-recoverable accounts and disputed collections.

Criterion: Risks should be identified, assessed, and managed. Dispute resolution processes are in place with client departments to address operational issues, financial risks and performance.

Integrated risk management as defined in the TBS Framework for the Management of Risk is a continuous, proactive and systematic process to understand, manage and communicate risk from an organization-wide perspective. It is about supporting strategic decision-making that contributes to the achievement of the organization's overall objectives.

We have observed and reported that weak policies, processes, internal controls and limited oversight have restricted the PPSC's ability to recover all funds which should have been received thereby reducing its operating revenues to be used for regulatory prosecutions. Also, PPSC faces challenges recovering from concerned departments, partially attributable to an absence of MOUs as well as uncertainty around authority to recover according to TBS Common Services Policy. There is a risk PPSC may have little recourse to ensure that departments pay for time charged against related files. Further, there is inconsistent reporting of key risks to senior management such as disputed accounts, revenue processing control deficiencies and unbilled services.

We did not observe a robust approach for risk management to mitigate these risks and loss of revenues to the organization.

Recommendation:

10. *The DDPP, REPMB, jointly with the CFO, should design, develop and implement a formal approach for risk management of VNR. Regular reporting of risks (e.g. disputed accounts, unbilled accounts over predetermined tolerances) and status of mitigating strategies and controls should be reported to senior management on an ongoing basis.*

3.3 COMPLIANCE WITH POLICY

The audit team found the PPSC was not fully compliant with TBS policies and directives for the period under audit review, and a number of administrative practices need to be strengthened to ensure full compliance. Financial controls represent important mechanisms and processes for ensuring that government departments comply with the TBS Common Services Policy, TBS Policy on Special Revenue Spending Authorities and TBS Directive on Receivables Management.

3.3.1 TIMEKEEPING , FILE CREATION AND QUALITY REVIEW

PPSC quality review practices and controls for timekeeping, file creation and billings need to be strengthened.

Criterion: Systems, controls and practices are in line with the FAA and TBS, Cost Capturing Procedures and Systems. Legal services costs are recorded properly and transparently, and recovered from client departments on a timely basis with documentation support.

Accurate and complete timekeeping information supports the effective planning, funding and management of departmental activities. All legal practitioners (Prosecutors and Paralegals) are required to record their time in iCase, in accordance with the PPSC NTP. The NTP states *"to help ensure data integrity, time should be recorded on a daily basis or as soon as practically possible thereafter"*. As well, some guidance is provided on business standards related to creation of files and the responsibilities of managers to monitor the validity and the integrity of the information recorded. Our observations relate to these policy requirements.

File creation: There are 36 unique departments and agencies that the PPSC collects revenues from, and 187 Order Numbers (e.g. portfolios, initiatives, or branches within a client department). We observed that there is an absence of rigour for creating new files with concerned departments and agencies, such as incomplete criteria and definition of what constitutes a recoverable or non-recoverable file. For instance, it is not always clear which responsible ministry should receive the invoice for prosecution charges, particularly with respect to cases where the RCMP lays charges, or in cases where multiple charges and statutes are involved. This determination is often based on experience of individual prosecutors, iCase administrators and administrative staff. There is a risk that without clear definition and criteria that unbilled files may go undetected, particularly where inexperienced staff are involved.

Timekeeping: We observed that billable time is not always recorded in iCase on a timely basis. In 2009-10, approximately $1.5 million of the $2.8 million in billable time not recovered (see Table 1 in Section 3.2.5) was due to time entered or modified (i.e. costs reassigned to another concerned department) in iCase after quarterly billings were issued and subsequently not recovered. While overall timekeeping compliance was found to be satisfactory for the majority of employees with over 66% of time entered within the first week (see Table 3 for Analysis of Timekeeping Entries), we noted that the cut-off date for the year-end billings was on March 31st, 2010 and did not allow even one day's grace for prosecutors and paralegals to enter their hours to ensure inclusion in the invoices. There are no procedures or automated controls in iCase to detect and prevent posting time to an earlier month or flagging time after the month-end/quarter-end bill statement is issued. Furthermore, we did not observe any specific communications within the organization to ensure that all billable time was entered at the cut-off date for 2009/10. However, management has issued communications in March 2011 to remind employees of the importance of entering their time accurately for the end of the 2010/11 fiscal year.

Effective February 20, 2010, the PPSC issued a Policy on Overtime[1] in response to the Arbitral Award for the Law Group of October 23, 2009. This policy requires lawyers to reconcile their hours worked at the end of each four-week period (28 consecutive calendar days) in a timely fashion in order to claim compensation for any eligible overtime hours. Management has indicated that overall timekeeping compliance should improve as a result, however the audit team notes that where financial period end dates do not match the four-week cycle dates for overtime reconciliation purposes (e.g. March 31) additional reminders to employees may still be necessary.

Table 3

Analysis of Recoverable Timekeeping Entries from Apr 1 2009 – Nov 2010		
Time Delay Range (in days) [1]	**Count (# of entries)**	**Percent of Count**
-110 – -1 [2]	267	0.52%
0 – 6	33,963	65.98%
7 – 13	6,130	11.91%
14 – 20	4,257	8.27%
21 – 27	3,189	6.2%
28 – 59	3,440	6.68%
60 – 89	175	0.34%
90 – 119	31	0.06%
120 – 149	16	0.03%
150 – 179	1	0%
180 – 367	5	0.01%
Totals	51,474	100%

Notes:

1. iCase only logs the last change date. If hours were worked on June 1, entered into iCase on June 2, and then changed on June 30 (to correct a typo, etc…), it would be considered entered on June 30, not June 2.

[1] Policy on Hours of Work, Overtime, Exceptional Leave, Travelling Time and Reimbursement of Meal Expenses for the Law Group (LA)

2. Negative time delay means iCase entry occurs prior to work being performed. Some of the negative time delay entries are for administrative items such as training which would be legitimate, however there are many entries relating to case files, which may not be appropriate.

Quality review: We found numerous invoicing discrepancies as a result of inaccurate billing information entered in iCase at the time the files were created. Furthermore, there is no delegated authority matrix defining accountability to approve or review invoices before they are issued. Invoices that are issued centrally at HQ are not reviewed by the Regional CFP or prosecutors responsible for portfolios for accuracy and completeness prior to being issued to concerned departments or agencies. Finally, financial officers and administrative staff who prepare the billing statements and invoices often do not have sufficient legal background or experience to determine the accuracy of the statutes relative to the responsible ministry to ensure that the invoices are sent to the correct organization. In general, the entire process would benefit from additional reviews to detect errors and improve the overall quality of invoices.

In fiscal 2009-10 in excess of $4 million was miscoded as cost recoverable, but was not recoverable. In another case, approximately $200,000 was originally coded to a file assumed to be non-recoverable. However, during an ad hoc review after the close of the fiscal year by the REPMB, it was determined to be recoverable, but had to be absorbed by the PPSC. Without a systematic and risk-based approach to quality review, there is a risk that such instances of revenue loss will continue.

Recommendation:

11. *The DDPP, REPMB, should improve and standardize acceptance criteria and file creation procedures to strengthen the accuracy and completeness of billing information on recoverable files at the initiation stage of a case.*

12. *The CFO should develop processes and controls to detect time being recorded in iCase but not billed, and strengthen year end cut-off procedures to accurately record billings to March 31, as well as each quarterly billing period.*

13. *The DDPP, REPMB, jointly with the CFO, should increase quality review procedures prior to the release of billing statements.*

3.3.2 BILLING RATES AND DISBURSEMENTS

Rates charged to other government departments are established in conjunction with the DoJ.

Criterion: Requirements of policies are developed, in consultation with client departments and agencies; meaningful and visible standards of service and performance for the delivery of mandatory services are in place.

The TBS Common Services Policy states that CSOs are accountable for developing, in consultation with concerned departments and agencies, meaningful and visible standards of service and performance for the delivery of mandatory services. As well, it states that CSOs are accountable to recommend to TBS rates to be charged for mandatory services that are not funded by appropriation and there is consultation with concerned departments. *(Note: The Policy was last modified prior to the creation of the PPSC, therefore PPSC is not mentioned in the list of CSOs.)*

During the audit, we observed that hourly rates charged by PPSC are circulated to Deputy Heads and CFOs of concerned departments and agencies. The rates charged for prosecution services are based on the DoJ's costing methodology and rate structure, and are approved annually by the Minister of Justice/AG and the TBS. There is a risk that the PPSC may be challenged regarding its actual costs for prosecution services.

With respect to the recovery of disbursements (e.g. expert witness costs), we found that these amounts are passed directly to departments and agencies using two different processes. Disbursements less than $200 are considered to be accounted for within the standard hourly rates and are not to be charged, while disbursements greater than $200 are recovered. We found that these parameters for billing disbursements are not applied consistently across regions and Headquarters.

In conclusion, there is a general concern that the PPSC may not be currently achieving full compliance with the Common Services Policy due to historical ties with the DoJ.

Recommendation:

14. The CFO should consider the feasibility of conducting a costing analysis to determine if the rates charged to concerned departments are consistent with the PPSC's cost structures.

3.3.3 BILLING AND INVOICING PROCESSES

HQ guidance and oversight should be increased to ensure a consistent national approach to billings and period-end financial controls.

Criterion: Statements of accounts and invoices are properly prepared (approved by right authority, within the authorized limits and accurate and timely issued) routed through the finance function when required and entered in the financial system on a timely basis.

FAD generate the bulk of billings to four (4) centrally managed concerned departments, (Canada Border Services Agency, Canada Revenue Agency, Environment Canada, and Industry Canada) which represents approximately 80% of the total revenues of the organization. The remaining departments and agencies are invoiced by the regional offices. The decision to prepare bills centrally or in the regions is largely dependent upon concerned department preferences, and most departments are invoiced quarterly.

Fourth quarter billings, which account for over 60% of the annual revenues, are sent in two iterations: one statement for the first part of the fourth quarter, and a second for the last week or two, depending on the region. Both of these statements were produced within a day of the period closing. This practice combined with a lack of year-end timekeeping procedures does not allow adequate time after the period closes for staff to enter all of their hours into iCase. As a result there are significant amounts of time not being billed to concerned departments at year-end. In general, the last two weeks of billable time in the fiscal year are not consistently invoiced to departments due to challenges at year-end in obtaining Interdepartmental Settlement codes on timely basis, which are required to collect revenue from another government organization.

Most regional staff interviewed indicated they preferred managing the invoicing locally, however they felt they did not have sufficient visibility of the accounts billed centrally with respect to collections or issues in order to provide a complete picture of revenue management for their region. We found that there is little guidance or oversight provided to ensure a consistent approach is taken to billing and invoicing. We also noted that there are minimal staff levels at HQ and in the regions with little back-up should staff not be available.

In fiscal 2009-10, approximately $800,000 of billable time was properly recorded in iCase but not billed, which included more than $500,000 for one large department. Reasons for this oversight included deficiencies in documented processes, guidance, communication, monitoring and oversight. There are no PPSC policies or procedure documents to provide guidance on which departments or agencies should be billed for the various prosecution services that the organization provides. Methods of approaching cost recovery are conveyed verbally from person to person. We observed that each region has its own ad hoc interpretation of policy, processes and approvals.

While there are many benefits to having decentralized billing processes, without standardized and consolidated reporting of the collective processes, there is an on-going risk of lost revenues and inconsistent application of business practices.

Recommendation:

15. *The CFO should develop a standardized approach and procedures that consolidate and report regionally and centrally managed billing results.*

3.3.4 ACCOUNTS RECEIVABLE MANAGEMENT

PPSC is not following the TBS Directive on Receivables Management to ensure that all government accounts receivables are managed fairly, efficiently and effectively. There is no account in IFMS to record accounts receivable.

Criterion: Systems, controls and practices are in line with the FAA and Treasury Board. Statements of accounts and invoices are properly prepared (approved by right authority, within the authorized limits and accurate and timely issued) routed through the finance function when required and entered in the financial system on a timely basis.

The objective of the TBS Directive on Receivables Management is “that all government accounts receivables are managed fairly, efficiently and effectively, while minimizing the risk of loss”. Furthermore, The TBS Guideline on Collection of Receivables specifically identifies “amounts due from other federal government department” as the type of debts managed by departments that may need to be recognized and administered in the department's receivables management system.

We observed that processes for accounts receivables management are not well designed or controlled. There is no corporate system or reporting of “Accounts Receivable”, resulting in insufficient follow up and awareness of issues with timekeeping, invoicing processes and “problem and disputed accounts”. The departmental practice is to issue an iCase Statement of Account (‘polite invoice’), to the responsible ministry. Once the ministry reviews and accepts the charges, and sends the payment (typically an IS code), the PPSC sends an ‘official invoice’ generated from its financial system (IFMS). The PPSC only records revenue in IFMS after the ‘official invoice’ is issued. Consequently, recoverable work performed but not yet paid or settled is not recorded in the financial accounting system. As such there is no systematic approach to determine what work has been billed (‘polite invoice’) and what amounts remain outstanding. Regions are starting to track these on manual systems, however this information is not forwarded to HQ, consolidated nationally, or reviewed by management on a routine basis.

Decisions to write-off billings at the regional level or at HQ are not transparent as they are not systematically recorded as revenue and written off to a separate account. There is a risk that management is not provided with full reporting on problem or disputed accounts. We observed several large concerned departments where problems with billing dispute resolution have been recurring since 2008/09.

Recommendation:

16. *The CFO should develop a controlled process for the timely and accurate recording of invoices in the financial system. An accounts receivable sub-ledger needs to be established to properly track and monitor outstanding accounts receivable.*

4.0 CONCLUSION

In this audit the IAD examined the PPSC revenue management framework. The audit team noted that PPSC is challenged by its current funding model, as well as by its relationships with certain concerned departments and agencies. From the outset of its creation, the PPSC has sought to replace its funding model with a statutorily based appropriation model in order to ensure that its funding is consistent with its prosecutorial independence. The PPSC is currently working with TBS to achieve a more appropriate funding model.

Until such time as VNR can be replaced by a more suitable source of funding for prosecution services, the general conclusion is that the PPSC's MCF for revenue management and cost recovery needs to be strengthened in order to improve the revenue process and control weaknesses observed for the period under review. The overall control framework needs to be enhanced, specifically in the areas of practices and procedures, governance and oversight, roles and responsibilities, monitoring and reporting.

The Chief Audit Executive (CAE) has requested that the Chief Financial Officer (CFO) and the DDPP, REPMB, jointly prepare an action plan to address the recommendations contained in this report. The management action plan is located in section 5 of the report. In six to twelve months, the CAE will follow-up with the CFO and the REPMB to ensure that the management action plan has been implemented or is sufficiently underway.

5.0 MANAGEMENT ACTION PLAN

Risk Ranking	*Recommendation*	Management Response and Action Plan	Office of Primary Interest	Initial Target Date for Completion
Authority to Generate Revenues				
High	*1. The Chief Financial Officer (CFO), in consultation with the Director of Public Prosecutions (DPP), should initiate discussions with Treasury Board Secretariat TBS) to address the funding model, applicability of the Common Services Policy and practices that should be in place with other government departments.*	The CFO and the DPP agree to address with TBS, the concerns from the TBS Policy on Common Services, issues of cost recovering from client departments and a long term funding strategy.	Finance and Acquisitions Directorate (FAD)	Q 1 – 2011/2012 * Q = Quarter
Memorandum of Understanding				
High	*2. The Deputy Director of Public Prosecutions (DDPP), Regulatory and Economic Prosecutions and Management Branch (REPMB) should develop standard terms for Memorandums of Understanding (MOU) that address the PPSC's independent mandate, statements of services, notification of new files, billing, and addressing billing disputes, and that MOUs including these terms be adopted where possible for each client department or agency.*	The DDPP, REPMB, will develop a template setting out a standard MOU to be used with concerned departments and agencies from whom the PPSC recovers its costs. The template will include a statement of the services provided, standard terms and conditions, billing arrangements, procedures for addressing disputes, and the forecasting of costs. The memorandum will also stipulate that the PPSC, in carrying out these services, retains full prosecutorial independence.	REPMB	Q4 – 2011/2012

Risk Ranking	*Recommendation*	Management Response and Action Plan	Office of Primary Interest	Initial Target Date for Completion
Policies and Procedures				
High	*3. The CFO, jointly with the DDPP, REPMB, should develop standardized policies and procedures for vote-netted revenue (VNR) that are tailored to PPSC regional and headquarter (HQ) operational and financial processes.*	The CFO, with the support of the DDPP, REPMB, agrees to develop and implement a financial management directive on VNR that will set out the standards and expectations for sound financial management and control across the organization, consistent with the *Financial Administration Act,* TBS policies, and the Management Accountability Framework. Its objective will be to ensure that a robust financial management governance framework exists that clearly articulates: legislation & policies, authorities & accountabilities, roles & responsibilities, requirements and processes (planning, budgeting, billing, recording and reporting) that will, when adhered to, lead to a number of positive financial and business Results. The directive will be communicated to delegated managers and posted on the PPSC intranet.	FAD	Q2 – 2012/2013
Oversight and Governance				
High	*4. The CFO, jointly with the DDPP, REPMB, should strengthen its revenue management framework by reviewing and enhancing roles and responsibilities, as well as key policy and procedural requirements for regional operations and HQ. Consideration should be given to establishing a joint Finance and Regulatory and Economic Prosecutions*	The CFO and the DDPP, REPMB, agree to create a VNR working group to plan and monitor revenue management operational and strategic matters. Updates from the VNR working group will periodically be communicated to the Finance and Acquisitions Committee. In addition, the roles and responsibilities of the working group, including procedural requirements, will be articulated in the financial management	FAD & REPMB	Q4 – 2011/2012

Risk Ranking	*Recommendation*	Management Response and Action Plan	Office of Primary Interest	Initial Target Date for Completion
	committee for planning and monitoring revenue management.	directive on VNR, as referred to in Recommendation #3.		
Roles and Responsibilities				
Medium	*5. The CFO, jointly with the DDPP, REPMB, should ensure that roles and responsibilities for staff engaged in the recording and management of billing and collection of revenues from concerned departments are properly documented, communicated, periodically reviewed, reinforced, and comply with applicable TBS policies.*	The roles and responsibilities will be articulated in the financial management directive on VNR, as referred to in Recommendation #3. The compliance monitoring will be included in the directive and will be performed by the FAD through reviews and other assessments.	FAD	Q2 – 2012/2013
Monitoring and Reporting				
High	*6. The CFO should enhance and strengthen financial billing processes and controls in order to ensure a timely reconciliation of the iCase and Integrated Financial Management System reporting systems.*	The financial processes relating to VNR will be articulated in the financial management directive on VNR, as referred to in Recommendation #3.	FAD	Q2 – 2012/2013
High	*7. The CFO should strengthen the financial reporting and risk-based performance reporting to senior management that includes key performance indicators such as billed and unbilled time in iCase, unpaid*	PPSC monitors and reports on the in-year financial performance via its Financial Situation Report (FSR). The FSR will be adjusted to provide additional performance information on VNR.	FAD	Q2 – 2011/2012

Risk Ranking	*Recommendation*	Management Response and Action Plan	Office of Primary Interest	Initial Target Date for Completion
	accounts, and disputed accounts.			
Budgeting and Forecasting				
Medium	*8. The CFO should design and develop a more robust appropriation budget and revenue management forecasting and monitoring process by responsible ministry that aligns with current PPSC Regulatory and Economic priorities and resource allocations within the context of the PPSC's hybrid funding model.*	Revenues are already part of the planning, budgeting and forecasting and monitoring processes. The CFO agrees to ensure a better alignment between the regulatory priorities and resource allocation during the annual strategic planning exercise.	FAD	Q1 – 2011/2012
Medium	*9. The DDPP, REPMB, in consultation with the CFO, should develop a more transparent billing, forecasting and reporting process with concerned departments to ensure that they are aware of their financial obligations to the PPSC on a more timely basis.*	The DDPP, REPMB agrees to include in the MOU's with departments and agencies a clause regarding forecasting by statutes they administer, in order to promote a more transparent billing and forecasting process. The financial processes relating to forecasting and billing VNR will be articulated in the financial management directive on VNR, as referred to in the first recommendation.	REPMB FAD	Q4 – 2011/2012 Q2 – 2012/2013
Risk Management				
Medium	*10. The DDPP, REPMB jointly with the CFO, should design, develop and*	A risk-based approach for risk management of VNR will be considered and dealt with in the	REPMB &	Q4 – 2011/2012

Risk Ranking	*Recommendation*	Management Response and Action Plan	Office of Primary Interest	Initial Target Date for Completion
	implement a formal approach for risk management of VNR. Regular reporting of risks (e.g. disputed accounts, unbilled accounts over predetermined tolerances) and status of mitigating strategies and controls should be reported to senior management on an ongoing basis.	Working Group (see Recommendation #4). The Group will consider the basis upon which regular reporting of risks and the status of mitigating strategies and controls will be reported to senior management. In addition, regular reporting will be done through the FSR.	FAD	
Timekeeping, File Creation and Quality Review				
High	*11. The DDPP, REPMB, should improve and standardize acceptance criteria and file creation procedures to strengthen the accuracy and completeness of billing information on recoverable files at the initiation stage of a case.*	Procedures to improve file creation and file opening will be developed in coordination with the Information Management and Technology Directorate. The possibility of integrating file creation and file quality review within existing information management systems, including iCase will be examined. The accuracy and completeness of billing information will be regularly monitored by HQ staff.	REPMB	Q4 – 2011/2012
High	*12. The CFO should develop processes and controls to detect time being recorded in iCase but not billed, and strengthen year end cut-off procedures to accurately record billings to March 31, as well as each quarterly billing period.*	Year-end procedures are developed and communicated on an annual basis. The CFO and REPMB collaborated in Q4 – 2010/2011and issued a communiqué to all delegated managers informing them of the year-end procedures. Additional procedures will be added in 2011/2012. The financial controls to VNR will be articulated in the Internal Control Directive.	FAD	Procedures in Q4 - 2011/2012 Directive in Q2 - 2012/2013

Risk Ranking	*Recommendation*	Management Response and Action Plan	Office of Primary Interest	Initial Target Date for Completion
High	*13. The DDPP, REPMB, jointly with the CFO, should increase quality review procedures prior to the release of billing statements.*	The CFO agrees to supplement the financial management directive on VNR, as referred to in the first recommendation, with a quality review checklist to ensure compliance and improve the billing process.	FAD	Checklist in Q2 – 2012/2013
Billing Rates and Disbursements				
Medium	*14. The CFO should consider the feasibility of conducting a costing analysis to determine if the rates charged to concerned departments are consistent with the PPSC's cost structures.*	The CFO agrees to assess the operating costs and the charges to departments and agencies for the Regulatory and Economic Program Activity.	FAD	Q1 – 2011/2012
Billing and Invoicing				
High	*15. The CFO should develop a standardized approach and procedures that consolidate and report regionally and centrally managed billing results.*	The FSR is a reliable monitoring tool and will be adjusted to provide additional performance information on VNR.	FAD	Q2 – 2011/2012
Accounts Receivable				
Medium	*16. The CFO should develop a controlled process for the timely and accurate recording of invoices in the financial system. An accounts receivable (A/R) sub-ledger needs to be established to*	Currently, the financial system does not record A/R related to the cost recovery transactions. PPSC uses the Corporate Service Provider's (CSP) financial system. The CSP is conducting a business process re-engineering that includes how and when to recognize A/R related to cost recovery transactions.	FAD	Q4 - 2012-2013

Risk Ranking	*Recommendation*	Management Response and Action Plan	Office of Primary Interest	Initial Target Date for Completion
	properly track and monitor outstanding accounts receivable.	Depending on the results of this project, PPSC may be in a position to track A/R.		

APPENDIX A –LEVEL OF RISK BY AUDIT CRITERIA

HIGH: Finding is individually significant and prevents audit reliance on controls for the area affected.

MEDIUM: Finding does not individually prevent audit reliance on controls for the area affected but the combined impact of several findings with a medium ranking can prevent reliance on controls for audit purposes for that area.

LOW: Efficiency item only.

Criteria		Management Accountability Framework (MAF) Element	TBS or Departmental Policy or Directives	Level of Risk
1.1	Independence & Funding Model	Results and Performance RP-2, RP-3	• *TBS Common Services Policy*	**HIGH**
1.2	Memorandum of Understanding and Service Level Agreements with Client Departments	Stewardship ST-15, ST-16	• *TBS Common Services Policy*	**HIGH**
2.1	Departmental Policy and Procedures	Stewardship ST-5 & 6	• *TBS Policy on Special Revenue Spending Authorities* • *TBS Directive on Receivables Management* • *TBS Common Services Policy*	**HIGH**
2.2	*Oversight* and Governance	Governance G-1, G-4, G-6	• *TBS Policy on Special Revenue Spending Authorities* • *TBS Directive on Receivables Management* • *TBS Common Services Policy*	**HIGH**
2.3	Roles and Responsibilities	Accountability AC-1	• *TBS Policy on Special Revenue Spending Authorities* • *TBS Directive on Receivables Management* • *TBS Common Services Policy*	**MEDIUM**

Criteria		Management Accountability Framework (MAF) Element	TBS or Departmental Policy or Directives	Level of Risk
2.4	Monitoring and Reporting	Stewardship ST-7, ST-14, ST-18, ST-20 Results and Performance RP-2 & 3	• *TBS Directive on Receivables Management*	**HIGH**
2.5	Budgeting and Forecasting	Governance G-9 / RM-7 Stewardship ST-3 & 4	• *TBS Policy on Special Revenue Spending Authorities*	**MEDIUM**
2.6	Risk Management	Risk Management RM-1, RM-2, RM-3, RM-4	• *TBS Framework for the Management of Risk*	**MEDIUM**
3.1	Timekeeping, File Creation, and Quality Review	Stewardship ST-10, ST-11, ST-13, ST-14	• *PPSC National Timekeeping Protocol*	**HIGH**
3.2	Billing Rates and Disbursements	Stewardship ST-10, ST-12	• *TBS Common Services Policy*	**MEDIUM**
3.3	Billing and Invoicing Processes	Stewardship ST-5, ST-10, ST-12	• *TBS Directive on Receivables Management*	**HIGH**
3.4	Accounts Receivable Management	Stewardship ST-10, ST-12	• *TBS Directive on Receivables Management*	**MEDIUM**

APPENDIX B – LINKS TO LEGISLATION AND TREASURY BOARD SECRETARIAT POLICIES, DIRECTIVES, GUIDELINES AND FRAMEWORKS RELATED TO ACCOUNT VERIFICATION

Financial Administration Act

Director of Public Prosecutions Act

Federal Accountability Act

Common Services Policy

Policy on Special Revenue Spending Authorities

Directive on Receivables Management

Guideline on Collection of Receivables

Framework for the Management of Risk