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## Standing Committee on Public Accounts

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EVIDENCE

**Tuesday, November 30, 2010**

—  
**Chair**

**The Honourable Joseph Volpe**



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• (1105)

[Translation]

**The Vice-Chair (Mr. Daryl Kramp (Prince Edward—Hastings, CPC)):** Good morning to you all and welcome to our witnesses.

[English]

I'll be filling in for our chair, Joe Volpe, who is a little under the weather this morning.

Today we'll be studying chapter 4, "Managing Conflict of Interest", of the 2010 fall report of the Auditor General of Canada.

At the conclusion of our examination and testimony today, we will take a brief period of time to discuss the notice of motion from Madame Faillie.

We will call on our witnesses for opening statements. We will first have, from the Office of the Auditor General of Canada, the Auditor General herself, Sheila Fraser. We will then call on Daphne Meredith, the chief human resources officer. Then we will call on Michelle d'Auray, Secretary of the Treasury Board of Canada. Assisting them as well, we have Ronnie Campbell, assistant auditor general, and Tom Wileman, principal. Welcome to you all.

Madam Fraser, would you kick us off with the opening statement, please?

**Ms. Sheila Fraser (Auditor General of Canada, Office of the Auditor General of Canada):** Thank you very much, Mr. Chair.

We thank you for this opportunity to meet with the committee to discuss chapter 4 of our 2010 report, "Managing Conflict of Interest". As you mentioned, I'm accompanied today by Ronnie Campbell, assistant auditor general, and Tom Wileman, principal, who are responsible for this audit.

This audit examined what the Treasury Board of Canada Secretariat and five selected departments have done to ensure that public servants can recognize a conflict of interest, however it arises, and know how to deal with it.

In previous audits we had found conflicts of interest in contracting and grants and contributions programs in three departments, that being Agriculture and Agri-Food Canada, Natural Resources Canada, and Public Works and Government Services Canada. We included those departments in our audit, as well as Canadian Heritage and Human Resources and Skills Development Canada, which are active in the same program areas.

[Translation]

Conflicts of interest bring into question the integrity and fairness of the decisions made by public servants in departments and agencies across the government. Conflicts of interest can be apparent, potential or real conflicts between work-related duties and private interests, and they do not relate only to financial benefits. If not properly addressed, conflicts of interest can increase the level of distrust and cynicism toward government, and over time, affect the legitimacy and effectiveness of government action.

The Treasury Board of Canada Secretariat plays an important role, but we found that it is not providing sustained support to departments. Two areas that have suffered are policy guidance and training with content from the secretariat's policy centre for values and ethics.

No new policies have been put in place, although these were required by legislation dating back to 2007. In addition, policy guidance is lacking in some areas and out of date in others. Work on training that meets common needs has not been completed nor fully implemented. Policy guidance and training are important for ensuring that public servants across the government have a common understanding of conflict of interest.

[English]

To prevent serious cases of conflict of interest, the secretariat needs to continue to support departments and agencies in identifying and managing such cases. This support will help departments analyze risks and assess how effective their efforts are in the area. This collaboration is key to ensuring that issues are detected and addressed as early as possible, ideally before any wrongdoing can occur, and to preserving the credibility of the Canadian public service.

The five departments have put in place mechanisms and assistance to address conflict of interest, and overall have met their obligations under the current policy. They have set up units to deal with values and ethics, designated senior officials to help public servants resolve issues, and provided guidance and training.

Departments need to identify areas where the possibility of conflict of interest is greatest, and devise strategies to address these situations. The three departments with previous cases of conflict of interest have addressed the specific issues from those cases. However, none of the departments had completed their reviews of all areas at risk.

We recommended that the departments take timely action to resolve conflicts of interest; complete their risk assessments, with regular reporting in high-risk areas; and improve their training efforts.

[*Translation*]

We also recommended that the secretariat provide better support to deputy heads on policies and guidance, as well as on common training. The secretariat has agreed with our recommendations. The committee may wish to ask them about their specific planned actions and completion dates.

Mr. Chair, this concludes our opening statement. We would be pleased to answer any questions that the committee may have.

Thank you.

**The Vice-Chair (Mr. Daryl Kramp):** Thank you, Ms. Fraser.

[*English*]

Now we'll go to Madam Meredith.

**Ms. Daphne Meredith (Chief Human Resources Officer, Treasury Board Secretariat):** Thank you for inviting us to appear before the committee on chapter 4 of the Auditor General's fall report on managing conflict of interest.

The secretariat welcomes this report and agrees with the two recommendations concerning us.

Of course, values and ethics, including conflict of interest, are not new concepts. They've been embedded in the public service culture for over a century. However, in 2003 the public service values were codified in policy and were also formally included in our leadership competencies and in our management system. Not only are they codified, they are measured. Values and ethics is one of the six indicators measured every year in our management accountability framework assessment of deputy heads.

The code itself is a condition of employment for all employees and is featured extensively in training for public servants offered at the Canada School of Public Service.

•(1110)

[*Translation*]

Mr. Chair, let me add that deputy heads have the primary responsibility for managing conflict of interest within their organizations. The secretariat, through my office, supports deputy heads in that role. My officials meet regularly with departmental values and ethics practitioners and champions to share best practices and tools.

Our attention is very focused on these issues, especially since we are developing a new values and ethics code for the public sector and a new policy on conflict of interest and post-employment, which are expected to come into effect in spring 2011.

The new code will apply to all federal government organizations, including separate employers and crown corporations. Departments and agencies are also developing their own codes of conduct to address their individual operational environments and unique risks. The secretary will tell you more about this in a moment.

[*English*]

Concerning the report, the Auditor General found that departments generally have measures in place to manage conflicts of interest. However, she recommended that the secretariat work with deputy heads to identify their common needs for policy advice, guidance, and related training on conflict of interest and that we support deputy heads in meeting those needs. We agree with these recommendations.

My office has worked, and continues to work, with deputy heads, first, to identify where deputies need guidance on conflict of interest and the best ways to provide it, and second, to identify, in partnership with the Canada School of Public Service, the course material needed to support the new policy on conflict of interest and post-employment and the new code.

Mr. Chair, the government is committed to ensuring that Canadians are served by a public sector guided by strong ethical standards, and we are pleased to respond to the Auditor General's recommendations with the constructive and positive actions I have outlined here.

This concludes my opening remarks.

Thank you.

**The Vice-Chair (Mr. Daryl Kramp):** Thank you, Madam Meredith.

We will now hear from Madame d'Auray.

[*Translation*]

**Ms. Michelle d'Auray (Secretary of the Treasury Board of Canada, Treasury Board Secretariat):** Thank you, Mr. Chair.

[*English*]

Daphne Meredith provided you with the overview and our response to the Auditor General's report. I'd now like to briefly add some elements from the perspective of a deputy head and an accounting officer.

The values and ethics code and the conflict of interest measures it contains set the overarching principles that apply to the public service as a whole. Based on these principles, every organization and every deputy head must take them into account and apply them to his or her organization to manage conflicts of interest. To do that, they must take their business lines, the variety of their stakeholders, and of course their mandate into consideration.

Determining when a conflict of interest exists can be quite complex. Conflicts can appear in several forms, and what constitutes a conflict of interest in one organization may not necessarily materialize in another.

[*Translation*]

I have been the deputy head of three organizations and in each one of these, I have led discussions with my management team and our employees on what constitutes a conflict of interest.

For example, at Canada Economic Development for the Quebec Regions, we promoted dialogue and put in place mechanisms so that employees could be totally comfortable to ask questions on conflict of interest and to disclose any conflict (real or potential) related to the grants and contributions we were reviewing and awarding.

The situation was different at the Department of Fisheries and Oceans, where potential conflict issues could arise about fisheries management regulations. In this case, employees are not allowed to hold a fishing licence. All that to say that conflicts of interest vary depending on the nature and activities within a given department.

At the Treasury Board Secretariat, where I am currently posted, conflict of interest risk management is done through a broad approach, since our employees have access to key information via departmental submissions. Consequently, every deputy could provide examples of risks and issues that they have to pay attention to in their organization.

Because some of these cut across multiple organizations, one of the ways Ms. Meredith's team helps departments is to provide a forum to share best practices through the values and ethics network.

• (1115)

[English]

Ultimately, deputy heads are responsible for applying the code and imbedding its principles and practices in their organization and with their employees. In so doing, they have to identify the risks inherent to conflicts of interest—apparent, perceived, or real—and take steps to mitigate them by developing tools and guidance to support their employees. It is also the responsibility of the employee to manage and identify his or her conflicts.

[Translation]

We are available to answer your questions.

Thank you.

[English]

**The Vice-Chair (Mr. Daryl Kramp):** Thank you very much to all of our witnesses.

We will start our first round of questioning now, for seven minutes.

Our first questioner will be Mr. D'Amours, please.

[Translation]

**Mr. Jean-Claude D'Amours (Madawaska—Restigouche, Lib.):** Thank you, Mr. Chair.

Thank you to all our witnesses for being here.

Auditor General, I noted something you said in item 7 of your opening statement: “No new policies have been put in place, although these were required by legislation dating back to 2007.”

Ms. d'Auray, you appeared before this committee not too long ago. You are fortunate to be able to come before us so often. I am convinced that you feel that way.

Do you remember having had regrets... I forget the words, and I do not want to speak for you. It was regarding another issue. It so

happens that we were discussing delays at Treasury Board Secretariat regarding the implementation of a number of standards.

Today we are told that “no new policies have been put in place, although these were required by legislation dating back to 2007.” We remember the timeframes you had to produce the reports. You said that you were publishing the first reports required under the act, and that there were delays with the other reports because there was no such requirement in the act. In this case, things are set out in legislation. How come the Treasury Board Secretariat has not put any new policy in place?

**Ms. Michelle d'Auray:** Thank you, Mr. Chair.

Like you, I do not know if I won the lottery. Be that as it may, the questions here are always relevant and serious, and it is a pleasure for me to answer them.

The act states that there must be a new code and, consequently, a new policy on conflict of interest management. That said, there is no void. The code established in 2003 is still in effect. The act does not provide any date. However, it does state that the code must apply much more broadly. The act does not only cover the core public administration, but crown corporations and other agencies as well. We have therefore undertaken a series of consultations, because this would be the first time that a code would apply to those organizations. All that takes time.

**Mr. Jean-Claude D'Amours:** Ms. d'Auray, allow me to make a comment.

The excuse that I am hearing, in part, is that the act does not contain any date. The legislation calls for the implementation of new policies, and it is regrettable to hear that there is no date. I understand, but at a certain point, one does have to exercise judgment. The act does not state that you must implement a policy by a certain date, but it does require you to do so. Today, three years later, still nothing has been done.

Moving on, I have a question for Ms. Meredith. The following is stated on page 2 of your opening remarks:

Our attention is very focused on these issues, especially since we are developing a new values and ethics code for the public sector and a new policy on conflict of interest and post-employment, which are expected to come into effect in spring 2011.

Ms. Meredith, could you tell me which government, and in what year, required that those tools be implemented in 2011?

[English]

**Ms. Daphne Meredith:** We're following up, Mr. Chair, on the requirements set out in the Public Servants Disclosure Protection Act of 2007, which asked us to come forward with a values and ethics code and conflict of interest provisions within that.

• (1120)

[Translation]

**Mr. Jean-Claude D'Amours:** Are you sure, Ms. Meredith, that those measures were called for in 2007 and not in 2005?

[English]

**Ms. Daphne Meredith:** This is the act that came into effect in 2007.

[Translation]

**Mr. Jean-Claude D'Amours:** When was the legislation adopted? Was it not in 2005?

[English]

**Ms. Daphne Meredith:** I think it was passed in 2007.

[Translation]

**Mr. Jean-Claude D'Amours:** It might be necessary to clarify that. In fact, I believe that it was in 2005. It might have been implemented in 2007. Was it not in 2005? I wonder if someone could give us a clear answer on that. Is there someone here who could tell us whether the legislation was implemented in 2005 or in 2007? When was the process launched?

Ms. Fraser, do you have any idea?

**Ms. Sheila Fraser:** I have a copy of the act. It is stated that it received royal assent in November 2005, but came into force in 2007.

**Mr. Jean-Claude D'Amours:** That is what I was getting at. It received royal assent in 2005, which means that everyone knew what was coming. The act came into force in 2007. We are now in 2010 and are being told, Ms. Meredith, that both tools should be implemented in spring 2011. I regret to have to say this but I wonder whether we will get the same kinds of responses each time we hear from Treasury Board Secretariat officials.

Measures should have been put in place, developed and prepared in such a way as to give all public servants the tools they need to do their work. December 2010 is at our doorstep. At least three years, if not five or six, have gone by since these measures were adopted and officially implemented by Treasury Board. These are serious questions. Is there a lack of rigour or seriousness within the department? When laws are adopted requiring the implementation of certain measures, do people simply say that these things do not need to be taken seriously, that they will get their wrists slapped or that this will eventually be forgotten?

**Ms. Michelle d'Auray:** Mr. Chair, I am quite aware of the timelines that you have mentioned. However, changes have been made to the organizational structure that must also be taken into account. The Canada Public Service Agency was responsible for developing the code. And yet, the agency was abolished and its functions were integrated into Canada's Treasury Board Secretariat. The integration and reorganization did take quite a lot of time and effort. That is not to say that work on the code and the policy stopped, but things took a little longer because we had to focus on integrating Treasury Board's new roles and responsibilities.

Nevertheless, as Ms. Meredith indicated, we also conducted a thorough and comprehensive consultation with various organizations. We are still gathering comments on and responses to the various drafts.

This is the first time that a code is being developed for the entire public service. We are also settling legal issues. And so we still have a little work to do on a number of legal issues regarding the scope of job offers and employment conditions that we can apply at this point in time.

This is not a simple matter. Principles are straightforward, but implementation issues are quite complex.

[English]

**The Vice-Chair (Mr. Daryl Kramp):** Thank you, Madame d'Auray.

Now Madame Faille, for seven minutes, please.

[Translation]

**Ms. Meili Faille (Vaudreuil-Soulanges, BQ):** Thank you, Mr. Chairman.

I'd like to thank my colleague for having broken the ice when it comes to the issue of conflict of interest.

This isn't the first time. Indeed, several reports noted situations of conflict of interest. I've been paying special attention to this since 2004 and I reviewed practically all the internal audits of the various departments that appeared before us.

I have one specific question. I don't know if you remember the episode of the logical model regarding the Integrated Relocation Program, which resurfaced last September. A little earlier, Ms. Meredith mentioned that perhaps we needed to specify certain dates, for example the date a code came into force. However, I would like you to explain the difference between the new code and the one that existed previously. Certain people, including retired deputy ministers, come and divulge things in our offices, which enable us to complete certain analyses. For example, if you're an assistant deputy minister and you witness dubious activity, are you going to denounce your deputy minister? What's the process? You take part in the meetings.

Lastly, I raised the issue of the logical model because the Auditor General had been called to appear at the same time as the officials from the Treasury Board Secretariat and PWGSC and that's the first time we ever heard of the logical model. Access to information requests, questions on the order paper that were tabled and the questions put in the House of Commons enabled us to reveal that in fact, that logical model did not exist and that it had been used simply to explain this to the committee.

Ms. Meredith, now that you know that this logical model does not exist, now that you're no longer with PWGSC and that the senior officials who were there at the time are no longer there, are you in a position under the new code to inform your new boss of such incidents?

• (1125)

[English]

**Ms. Daphne Meredith:** We have, under the Public Servants Disclosure Protection Act, provisions that allow employees to disclose incidents of wrongdoing in the workplace. We report every year on the disclosures that have been made. So this is really quite an important provision that we have to reinforce ethical practices in the public service, including those concerning conflicts of interest.

**The Vice-Chair (Mr. Daryl Kramp):** Madame Faille.

[Translation]

**Ms. Meili Faille:** Let's go back here. At the time, would you have had any protection if you had disclosed dubious practices?

[English]

**Ms. Daphne Meredith:** Before the Public Servants Disclosure Protection Act and with the issuance of the 2003 values and ethics code, there was a provision for each department or agency to have a senior officer responsible for internal disclosure, which then allowed employees to make disclosures internally in the department. As well, there was the public service integrity officer, to whom they could make disclosures as well.

[Translation]

**Ms. Meili Faille:** Do I have any time left?

[English]

**The Vice-Chair (Mr. Daryl Kramp):** You have three minutes.

[Translation]

**Ms. Meili Faille:** Have you ever thought about disclosing something?

[English]

**Ms. Daphne Meredith:** No, I haven't. As a personal question, no.

[Translation]

**Ms. Meili Faille:** Now, if a legal process is under way concerning a public servant suspected of being in conflict of interest, is it true that the government forces the plaintiff to abandon any lawsuits before his case is heard? Is the complaint receivable if the government has begun a lawsuit? If both occur at the same time, what happens?

[English]

**The Vice-Chair (Mr. Daryl Kramp):** Madame Faille, I'm not sure if the question is in order. It's a hypothetical question. Could you perhaps clarify that, Madame Faille?

[Translation]

**Ms. Meili Faille:** I will clarify my question.

You're telling us that the law protects and encourages public servants to make disclosures. However, the complaint filed with the Public Service Integrity Office by a public servant cannot be heard as long as there is a court process underway. I have a letter from the commissioner to whom the question had been put.

I asked this to find out whether the new code provides for some flexibility, another regulation or a mechanism to hear disclosures when there is a legal process under way.

• (1130)

[English]

**The Vice-Chair (Mr. Daryl Kramp):** That's a fair question.

**Ms. Daphne Meredith:** I don't know or haven't considered the situation you have presented there, so I'm not able to answer the question on what would happen if there were a legal proceeding under way, if somebody had made a complaint.

**The Vice-Chair (Mr. Daryl Kramp):** Thank you, Ms. Meredith.

You still have another minute left, Madame Faille.

[Translation]

**Ms. Meili Faille:** I'm somewhat surprised that you've never seen such a situation, because you took part in a meeting where there

were discussions about this. Perhaps I can refresh your memory by saying December 2006 and January 2007.

I'll give you an opportunity to revise your answer. You don't have to confirm it, but you were present when the topic of the rights of a person under the charter was discussed.

[English]

**Ms. Michelle d'Auray:** Mr. Chair, on this particular issue—

**The Vice-Chair (Mr. Daryl Kramp):** Could we possibly have a quick response, Madame d'Auray, on this point?

[Translation]

**Ms. Michelle d'Auray:** The code that we are developing as well as the policy on conflict of interest do not change the law. The commissioner takes direction from the law. The code simply provides a framework for certain practices, but it does not replace the law.

**Ms. Meili Faille:** There's still a deficiency here. If a legal process is under way the law can be taken into account.

**Ms. Michelle d'Auray:** Yes, but there is a process to review the act that could be triggered by Parliament starting in 2012.

**Ms. Meili Faille:** There have been delays.

**Ms. Michelle d'Auray:** What is important is finding out what the legislation allows. The code does not change or amend the legislation.

[English]

**The Vice-Chair (Mr. Daryl Kramp):** Thank you, Madame d'Auray.

Madame Faille, if you wish to pursue that issue in another round of questioning, that would be fine, but now we'll go to Mr. Allen, please.

**Mr. Malcolm Allen (Welland, NDP):** Thank you, Mr. Chair, and thank you to everyone.

The Auditor General mentioned in her report as well as in her opening statement about different areas that she found lacking. One of them was training when it comes to folks you're working with in the public sector. I have two pieces I'd like you to address about training. One of them is what I'll term—for a lack of better word—the “full-time general population” that's in the public service, and there is one other section. There are two subsets to that: folks we bring in on a temporary full-time basis, or contract, if you will; and in the subset of that are the consultants we bring in from time to time.

Really, we have three levels of employees, if you will, that clearly should be governed by ethical standards and by conflict of interest because they are working on behalf of the Government of Canada and of course Canadians.

Could you address each of those? Because clearly, in the report—in section 4.8 and section 4.9—we're talking about audits done in 2007, where indeed the Auditor General found contractors and consultants were empowered to set up contracts and terms of reference for contracts that eventually awarded the contracts to themselves or to the companies they were principals in, or less than principals in.

When I was in municipal government I used to abide by a conflict of interest code as well, and anyone who didn't understand that that's a direct conflict of interest is really eating the wrong mushroom, so to speak, because at the end of the day, if you don't know you have a pecuniary interest in a company, and you're working for the government, and you award your company the contract or set up the terms of reference such that the contract will be won by that company.... That's not long ago. We're talking three years ago when the audit was done; it's not 25 years ago. This is relatively new.

So could you address those three groups of employees, with a sense of how you intend to train them? It's all wonderful to say that full-time employees go to school, but the reality of going to school and actually working in the real world is not totally the one and the same.

• (1135)

**Ms. Daphne Meredith:** Thank you for the question.

The values and ethics code applies to federal employees, and that includes indeterminate employees, term employees, and casual employees. All of them are subject to the code. Contractors or consultants hired under contract are subject to the Treasury Board contracting policy, which has a provision on conflict of interest and therefore puts an obligation on those contracting with the government, before signing a contract, to require any consultant or other person that will be working directly for the government to sign a declaration stating that no pecuniary interest in the business or any third party exists that would affect objectivity in carrying out the contract.

They're not subject to the values and ethics code per se, which is for employees, but there are provisions in the contracting policy for their conflicts.

**The Vice-Chair (Mr. Daryl Kramp):** Do you have another question, Mr. Allen?

**Mr. Malcolm Allen:** I understand what you're saying about adapting a group. Here's my fear of that training, which I witness in the real world when it comes to places where I work. The reality is that you set up a training matrix for those who work full-time or on a regular basis, and that you intend to have for the next ten years. Then you look at the next subset, which are your temporary employees, who are going to be there for a year, and say "Maybe I can fit them in, but if it's the last month of the contract, why would I train them? I don't think I'm getting them back. If some other department gets them, let that budget go there."

When it comes to contractors, you clearly said that you don't train them at all. You get them to sign a declaration. I guess that begs the question: Did the folks the Auditor General was talking about in the 2007 report sign a declaration? If they did, when it was found that they had actually breached that declaration, what happened? Did you fire them? They only have a contract anyway.

At the end of the day, what kind of leverage do you have over a contractor who is on a short-term contract of a year or two, who you find out at month 19 has breached the code, and you say "See you later, you're out of here"? Do you punish the company that they actually helped to set up a contract for by saying "You can't have the contract because the employee was gone in three or four months anyway"? The punishment doesn't really fit the crime, in my mind.

**The Vice-Chair (Mr. Daryl Kramp):** A response, Madame d'Auray, please.

**Ms. Michelle d'Auray:** I think there are two aspects to this. One of them is training, which is a component of what we provide our employees. I'd simply make the point: consultants and contractors are not employees of the Government of Canada.

The training we provide is on the basic elements of the code and the responsibilities, but there is an added component, which is the ongoing discussion, as I mentioned earlier, that deputy heads have through their management, through their employees, about what it means to deal with these issues on an ongoing basis.

Training gives you the core framework, but really, the value is in the ongoing discussion and engagement of employees, because training will not cover every single situation. You have to actually have a discussion, create an openness for those issues to arise. Not everything can be prescribed, and not everything can be thought of.

I was trying to give you an explanation that what is a conflict of interest in one department, given the business line, is very different from the actual conflict or perceived conflict. There are some general principles and values.

With regard to contracting, the onus is on the contractor to make that declaration. We have to make sure to the extent that we can, but we don't know the full business of every independent contractor or business. The recourse we have is basically to make sure they cannot benefit or profit.

I've had situations, for example, where someone in fact was a contractor, then found out afterwards that the person had applied for a grant or contribution, and we wrote the company to say you cannot put this person responsible for the application and the relationship, because the individual is in fact in a position of conflict. Is the company in a conflict? Do you bar the company from applying for a grant or contribution? No, because there is a legitimate business value in them applying for the opportunity to benefit from an investment.

• (1140)

**The Vice-Chair (Mr. Daryl Kramp):** Thank you, Madame d'Auray.

Seven minutes, Mr. Saxton, please.

**Mr. Andrew Saxton (North Vancouver, CPC):** Thank you, Mr. Chair, and thank you to our witnesses for coming back once again today.

My first questions are for the Office of the Auditor General.

One of your recommendations was to improve training with respect to conflict of interest. Would you agree that the new employee orientation in Canadian Heritage is a best practice that could be applied more widely in other departments as well? I refer specifically to paragraph 4.68 on page 23.

**Ms. Sheila Fraser:** Thank you.

Yes, we did point to it in the report as a practice that other departments might want to adopt, that there was an orientation session that was given to all new employees. The reason we raised training was because in the three cases that we note in the report, it raised questions to us as to whether people really understood what a conflict of interest was, and were there policies, procedures, and training in place that would help them identify those situations and then know how to deal with them.

**Mr. Andrew Saxton:** Thank you.

How do you deal with conflict of interest in your office? Do you have any successful practices that could be shared with other departments?

**Ms. Sheila Fraser:** We have a fairly rigorous procedure for conflict of interest. As you can imagine, many of our auditors are privileged to sensitive information affecting companies that are listed on stock exchanges, grants that would be given to them, loans, financial information, those sorts of things. All of our staff must declare every year; they are required to fill out a form about conflicts of interest, generally as to whether they have family members working in senior positions in government. More importantly, they also have to disclose all of their financial holdings to a designated person within the office. In certain cases we have had to set up blind trusts for certain of our senior employees who are working on audits, for example, of the Office of the Superintendent of Financial Institutions, those sorts of things. So there is quite a rigorous process.

Obviously I come from a world of accounting firms, where the list of prohibited investments was almost a volume. We haven't gone that far to prohibit staff from investing, but certainly we do make sure they generally are aware of all that. Again, on each individual audit, every member of the audit team—and this is a professional standard—must have a declaration of independence, and that has to be for every single audit we undertake. There is a very rigorous process, not only within the office but with professional standards as well.

**Mr. Andrew Saxton:** Thank you, Madam Fraser.

Because of the nature of the work conducted in your office I can understand the rigorous nature of the conflict of interest guidelines, but are there some practices in your office that you think other departments could also apply?

**Ms. Sheila Fraser:** Well, certainly one of the things we've encouraged government to look at is a more proactive approach to declarations that employees declare annually, not only when they think they may have a conflict of interest but even to declare they do not have a conflict of interest. That's something we have recommended that we think government should look at.

**Mr. Andrew Saxton:** Thank you very much.

My next question is for the Treasury Board Secretariat.

Can you describe what happens when someone is hired in the public service? What process do they go through to learn about conflict of interest responsibilities, and how has this changed over the years?

**Ms. Daphne Meredith:** With the introduction of the values and ethics code in 2003, new public servants receive a letter of offer in which they're told they are subject to the values and ethics code and

that they are personally responsible for identifying and disclosing any conflicts of interest they have.

There is a positive invitation to them to make a declaration, to the extent they feel they have a conflict of interest, and to file appropriate documentation, not unlike what the Auditor General has suggested exists in her office. In addition, they go through a mandatory orientation to the public service. That has as an important training element in it on values and ethics so that they're trained on the elements of the code and how those elements might apply in their working situation. More recently they've been given, as well, an online part of that training called "Paving the Way". That takes them through values and ethics issues online and subjects them to a test at the end. So they're tested on their knowledge of values and ethics.

Those are the measures that are aimed at them across the board, and each individual. And then of course they are supported by the measures their organizations take on conflicts of interest and ethical issues that might arise in each specific organization.

Those are the measures that take place on entry.

● (1145)

**Mr. Andrew Saxton:** Thank you.

What is Treasury Board Secretariat's mandate with regard to managing conflict of interest? Deputy heads have the primary responsibility for managing conflict of interest within their departments and organizations, so what falls on TBS?

**Ms. Daphne Meredith:** As part of our values and ethics code we have a chapter on conflict of interest, so we provide direction on conflict of interest specifically. As well, as is noted in the Auditor General's report and is contained in this booklet, we set out the responsibilities of individual public servants as well as deputy heads on managing conflicts of interest. These things are set out with some precision.

We also have put the structure in place. Given that it's a very large population we're applying the code to—over 200,000 people—to us it's really important that we have the structures in place. We require deputy heads to have an individual who can advise on ethical issues within their organization, receive disclosures of wrongdoing, and otherwise support it.

**The Vice-Chair (Mr. Daryl Kramp):** Fine, thank you.

Now we will start the second round of questioning.

Mr. Lee, welcome back. You have the floor for the next five minutes, sir.

**Mr. Derek Lee (Scarborough—Rouge River, Lib.):** Thank you, Mr. Chair. It's truly a pleasure to be back with you.

For my first question I'd like to introduce committee members to the concept of foot-dragging—a novel concept.

**Mr. Terence Young:** Never heard of it before.

**Mr. Derek Lee:** Mr. Young is curious where that comes from. I knew members would find it novel.

I want to ask Ms. D'Auray, given that the legislation that required the development of some new policies in this field was adopted in 2005—assented to in 2007—it has actually been five years since we've all, as citizens, been on notice that we have to develop a policy. I know how long the five-year period was because I've been sitting in opposition for those whole five years, and I have enjoyed it.

Can you explain to me what happened over the five years and how close we are to completion? I know there's something in the pipeline—my notes say that something in this regard is at Treasury Board—and the Treasury Board ministers and public servants are waiting for it to come back. So give me an expectation of completion of task and tell me why you think it has been five years in the making. Why does it take so long?

**Ms. Michelle d'Auray:** We are planning for spring 2011. The code and policies have not yet been presented to Treasury Board ministers. As I said earlier, there are still some legal issues that require some validation.

A couple of things have delayed some of the discussions. One is the restructuring of the organization called the Canada Public Service Agency and its reintegration into the Treasury Board Secretariat. This resulted in machinery issues. It took us a year or two to integrate the organizations. Ms. Meredith described the time that it took for us to talk to academics, have discussions, and engage public servants. More than 5,000 public servants have been engaged in the discussions to date. We are broadening the scope of these discussions to encompass more than 400,000 public employees.

A number of elements have changed since 2005 and even since 2007, and one of those is the pervasive use of social media. How do we handle a conflict of interest in the management of personal affairs in the context of social media, and what does that mean in a conflict of interest case, whether perceived, real, or apparent? This has taken us quite a bit of time to sort out, and it's also an issue that a number of experienced people in other countries are struggling with. So it is not a case of foot-dragging. There are some complex issues that we are still sorting out, and our timeline is spring 2011.

• (1150)

**Mr. Derek Lee:** When we legislated this, we didn't think of conflict of interest as a growth industry, but maybe that's what happens.

The Auditor General recommended that departments do risk assessments to determine where the risks for conflicts of interest are highest and where related problems are to be found. This seems like good common sense. Have any departments gone down this road? Have they completed risk assessments? Which are they? Could you

give me an example of how this search for the highest risks produces a good or bad result?

**Ms. Daphne Meredith:** We know that—

**Mr. Derek Lee:** My time's up, but yours isn't.

**The Vice-Chair (Mr. Daryl Kramp):** Give us a brief answer, please.

**Ms. Daphne Meredith:** I think it's a wise practice, a very good practice. We know that organizations have done this. In fact, the Treasury Board Secretariat itself has done one of these assessments. So there are good examples that can proliferate.

**The Vice-Chair (Mr. Daryl Kramp):** Thank you.

**Ms. Michelle d'Auray:** At TBS we have done an ethical risk assessment. And in the audit policy, there is a requirement for departmental audit committees to have an annual look at the departmental risk profile. They are supposed to have a conversation on values and ethics within the organizations. Departmental audit committees do this each year.

**The Vice-Chair (Mr. Daryl Kramp):** Thank you.

Mr. Young.

**Mr. Terence Young (Oakville, CPC):** Thank you.

Madame d'Auray, I think it was you who said there is no current vacuum in the conflict of interest code and its application to the civil service. You talked about developing a new values and ethics code for the public sector and a new policy on conflict of interest and post-employment. What can you tell us about this now? I realize that it's not complete, that it's not ready to be presented to Parliament, but what can you tell us about the direction it's heading in and what might be new in that policy?

**Ms. Michelle d'Auray:** I think I'll ask Ms. Meredith to talk about the issues we are working our way through.

**Ms. Daphne Meredith:** In terms of the conflict of interest policy per se, as Madame d'Auray pointed out, one of the issues we are working on is the influence of social media and its impact on employees and their obligations given the pervasiveness of social media and the instant nature of communications. That's an interesting issue for us going forward.

I think as well we're looking at some issues of how to strengthen deputies' responsibilities for looking at implementing conflict of interest risk assessment in their own organizations. We know that there's an opportunity to strengthen the approach there, so how do we do so? What kind of direction do we give to deputies that might strengthen the regime in that area?

As well, we want to look at issues of post-employment and how to strengthen our regime in terms of the obligations of employees who leave the public service.

• (1155)

**Mr. Terence Young:** Thank you.

In your report you say that the code is a condition of employment. Presumably, if it's a condition of employment there are sanctions. Can you talk about what sanctions are codified in the existing process for employees who break the rules and whether there are any proposed changes in the new process coming in the spring of 2011?

**Ms. Daphne Meredith:** Yes, you're quite correct in saying that the current code is a term and condition of employment. So departments can use the code for disciplinary purposes if they find evidence of wrongdoing by employees. We can identify instances when breaches of the code have resulted in discipline being levied, right up to and including termination of employment.

**Mr. Terence Young:** Thank you.

Also, there's a reference to putting in place mechanisms so that employees can be totally comfortable to ask a question on conflict of interest and disclose any conflict, real or potential, related to grants and contributions. How does that work in the office? What does an employee do when they think there's a potential conflict of interest or a real one? I think what is critical is what is the difference between a perceived conflict of interest and a real conflict of interest.

**Ms. Michelle d'Auray:** If I may, I will answer that, Mr. Chair, since I raised the issue of grants and contributions.

When I headed an organization the primary responsibility of which was in fact the management and overseeing of grants and contributions, we launched a number of discussions among employees, because sometimes the issue, as you've quite rightly pointed out, of what is real versus what is perceived is in fact a very complex discussion to be had.

One example is that of a small community in which federal public servants were clearly identified and had a responsibility for assessing applications for grants and contributions, as was the case in my organization at the time. Their kids were at a hockey game and spent a lot of time together because they were in a bantam hockey group. So two parents, one a public servant and another parent, therefore met fairly frequently.

One day the other parent asked the public servant, "Do you know anything about this current application?"

At that point the discussion stopped, because we had had a discussion internally about the circumstances under which you should engage in these kinds of discussions and whether informal discussions of that nature were allowed. In a community where everybody knows everybody, the conflict and the potential conflict then become apparent. It meant you couldn't stop friendships, but at the same time the public servant had to be confident enough to say "Okay, the boundaries of the discussion now should move to a professional situation". But you don't write those discussions down. You have to create an environment in which people feel comfortable enough to raise them and to have a discussion as to whether that would be perceived as a conflict.

**The Vice-Chair (Mr. Daryl Kramp):** Thank you, Madame d'Auray.

We'll hear from Madame Bourgeois now, *s'il vous plaît*.

[*Translation*]

**Ms. Diane Bourgeois (Terrebonne—Blainville, BQ):** Thank you, Mr. Chair.

Ms. Fraser, ladies and gentlemen, I am pleased to see you again, this time at another committee.

First of all, I feel that it is extremely important that we work on a code to deal with the management of conflicts of interest. I believe that both the Canadian and Quebec people want transparency and integrity. Conflicts of interest cast grave doubt on the integrity and fairness of decisions made by public officials. We know that, for the most part, public servants are very honest. Unfortunately, there are some slightly rotten apples in the barrel and so we need to implement a mechanism, hence the code to manage conflicts of interest.

Ms. Fraser, in today's presentation, you strongly emphasized the need for developing strategies to resolve conflicts of interest. I believe that you were talking about the development of government strategies. I believe that you were calling on the Treasury Board to do so first, and then you were looking to the various departments.

Do the strategies include or exclude consideration of whistleblower public officials?

• (1200)

**Ms. Sheila Fraser:** We did not give any specific consideration to whistleblower public officials, the role of the commission or any of that part.

**Ms. Diane Bourgeois:** Why?

**Ms. Sheila Fraser:** It is different from detecting and managing conflicts of interest. I consider these to be very different things. This audit focused on the awareness of public servants with respect to conflict of interest, existing policies, mechanisms—for example, training and risk assessment. The disclosure of wrongdoing is another aspect.

**Ms. Diane Bourgeois:** Could you say that this could be one mechanism among others?

**Ms. Sheila Fraser:** Yes, in certain cases, that could be.

**Ms. Diane Bourgeois:** In your recent report, in paragraph 4.69, it is written that "PWGSC also provides mandatory training in ethics for all public servants."

Since when has this been occurring? Why is this training provided? Is it because of something that occurred internally?

**Ms. Sheila Fraser:** Every department has an obligation to set up a process or implement a code of values or ethics for the entire government. We noted that the five departments that we audited had all met the requirements, namely they were providing courses or had appointed a senior official who would be available to employees in order to discuss such cases. PWGSC has done this—I do not know when, probably in 2003—in adopting the values and ethics code.

**Ms. Diane Bourgeois:** Thank you very much.

Ms. d'Auray, you must respond directly to the Auditor General. She has asked you to implement an action plan. I have examined this one here. Is this your action plan? It is very vague and is lacking in details. It does not indicate who is responsible for a given task, nor does it provide any deadlines.

I would imagine that the recommendations in the Auditor General's report were tabled before the summer or in September. How do you explain the fact that, since then, you have been unable to produce a more substantial action plan? Indeed, your plan simply repeats that you are going to develop the educational material and say what needs to be modified or developed. That's all that you get from this report. I find that quite disturbing.

[English]

**The Vice-Chair (Mr. Daryl Kramp):** Madame Bourgeois, we're way over time.

[Translation]

**Ms. Diane Bourgeois:** May I have the answer.

[English]

**The Vice-Chair (Mr. Daryl Kramp):** Please give a quick response.

[Translation]

**Ms. Michelle d'Auray:** First of all, we responded that we were in favour of the recommendations made by the Auditor General.

To answer your question, I would tell you that the action plan that we have developed will be carried out in compliance with the new code and the new policy.

[English]

**The Vice-Chair (Mr. Daryl Kramp):** Thank you.

Now we'll go to Mr. Shipley, for five minutes, please.

**Mr. Bev Shipley (Lambton—Kent—Middlesex, CPC):** Thank you, Mr. Chair, and thank you to our witnesses.

In terms of the conflict of interest code, it is for public servants, not for ministers or members. Is that correct?

That is to the Auditor General.

**Ms. Sheila Fraser:** That is correct.

**Mr. Bev Shipley:** I just have a comment, and then I'll have a question following.

We continue to bring in more enforcement, more oversight, and more looking over shoulders and making sure that people are doing things the way they actually should be doing them. I'm trying to understand. Has there been a cultural change in attitude? Why do we need to continue to reinforce and reinforce ethics and a code of practice?

I don't know if that's to the Auditor General. I would go to your report. Then I would go to Madame d'Auray also.

●(1205)

**Ms. Sheila Fraser:** I think questions of ethics and values need to be continually discussed, communicated, and reinforced with public servants. A large number of people come into the civil service every year who need to understand the values of the public service.

As we mentioned in the report, we saw some cases that appeared to us to be pretty obvious conflicts of interest, and yet they had not been identified. They had not been addressed. That said to me that there was an issue of understanding conflict of interest. That's why we started the audit. It was to ask about what training and

communication is being given to public servants to help them recognize these situations and then deal with them.

**Ms. Daphne Meredith:** Mr. Chair, if I could add to that, we think that this needs continuous dialogue. It's not something you tick off and say we've done, for the reasons the Auditor General outlined. New public servants come in and new issues are raised, as well, that we need to talk through.

That's why we have values and ethics embedded in no fewer than 30 course offerings at the Canada School of Public Service. As well, I'd say that our intensive engagement, especially over the past year, as we've talked through issues in the new conflict of interest regime.... I've had—I counted them before coming here—at least 12 occasions on which I've talked to groups of deputy ministers about how we go about formulating and implementing the new regime.

This is very much in people's minds. I think they've embraced the idea that it should be a continuous focus and part of a continuous dialogue.

**Mr. Bev Shipley:** We go back to 2005 or 2007, and it continues. Can you just explain for us, and the people who will be reading this, some of the actual differences in the policy on conflict of interest and post-employment? What are the differences between this one and the current policy? Because they're not very old.

**Ms. Daphne Meredith:** There are some similarities. One is that the current one is codified. The new one will be codified as well. The new one will apply to a much broader group of organizations, including crown corporations and separate agencies, which are not covered by the current code. So a key difference is who they apply to.

In terms of the new one for conflict of interest, it will deal with some of the issues I identified earlier, including the issues posed by social media, the post-employment regime and how it is enforced, and how deputy heads or CEOs may go about doing risk assessments in their own organizations. Those are some of the differences.

**Mr. Bev Shipley:** Madam Fraser, for us and for Canadian taxpayers, when we bring in these codes and procedures—and I understand the process—do we have any idea of the amount of time and resources used and the cost of implementing these programs?

**Ms. Sheila Fraser:** I would doubt there is a comprehensive costing of the efforts to implement and maintain these sorts of programs. I would, though, ask what the cost would be not to bring this in.

**Mr. Bev Shipley:** I think that likely goes back to my first question or comment, on the need for increasing oversight. I think it's a reality of our social structure. We continue to seem to be having to put more oversight on people's shoulders to make sure things are done right in terms of the code of conduct.

**Ms. Sheila Fraser:** Can I just respond to that, Chair?

I don't really think this is a question of oversight or someone checking. It's making sure that public servants are aware of the values and ethics expected of public servants, that they know who to go to if they find themselves in awkward situations that may arise for all kinds of reasons, and that the management in every department and agency knows how to deal with those sorts of situations. I think it's giving the people the tools to be able to do their jobs as they would want and to avoid these kinds of situations where possible.

• (1210)

**Mr. Bev Shipley:** Thank you.

**The Vice-Chair (Mr. Daryl Kramp):** Just a brief response, Madame d'Auray.

**Ms. Michelle d'Auray:** Briefly, all of this is really around creating an opportunity for dialogue and constant evolution. These issues are not static. The principles are core, the values are core. How people interpret them, how they deal with them on a daily basis, changes. Issues arise, and we have to create an opportunity for people to be able to discuss them.

**The Vice-Chair (Mr. Daryl Kramp):** Fine.

Thank you very much.

Now, Mr. Allen, please. Five minutes.

**Mr. Malcolm Allen:** Thank you, Chair.

I want to go back to where we left off.

Madame d'Auray, you quite ably pointed out an excellent example of how culture in an organization teaches. My dilemma is, how are short-term employees ever taught, if they're not an integral part of the culture for any length of time? Over the last number of years we've seen an ever-increasing number of contract employees—not consultants, but contract employees—who then become temporary. When you do risk assessments, for me this is a glaring example of a potential risk in an organization where we have folks who perhaps don't have the benefit of formal training—because they simply sign a declaration—and don't stay with the organization long enough to develop a culture to teach and help teach.

I agree with you, Madame d'Auray, that does happen. We can't codify it all. I learned that a long time ago in municipal government. You don't codify everything. You've got to figure it out sometimes.

The other part I want to address is training. We've seen a reduction in human resources of 23 full-time equivalents—I hate the term, by the way, because I've never seen a part-time body walk around—down to 11. According to what you're telling us, and what the Auditor General is saying in the report, you've handed off to deputy heads. Unfortunately, the deputy heads are saying they don't have the up-to-date tools to carry forward what they're being asked to do.

I would ask Madam Fraser to comment first on this aspect of when we're not involved integrally in the culture, how do we learn, and is that a potential risk we're not looking at and maybe should be? Then I'll get back to the training piece with Madam Meredith and Madame d'Auray.

**Ms. Sheila Fraser:** I find it a little difficult to answer the question, Chair. I think a lot will depend on the kind of work being given to those short-term employees. Again, it goes back to the risk

assessment—what areas people are working in, if they are largely short-term employees that would increase the risk, I think. Mitigation efforts would have to be put in place.

I think it really goes back to the jobs they're doing.

**Ms. Daphne Meredith:** To provide a bit of perspective on the proportion of term contract employees versus indeterminate, about 86% of the core public administration is employed on an indeterminate basis. That means about 190,000 would be indeterminate for a longer term, where they can absorb the culture and values of the public service.

I completely support the Auditor General's point that you have to look at what these people are doing. It's a question of risk assessment and targeted measures to deal with the risk they may present.

**Mr. Malcolm Allen:** I appreciate the fact that you talk about we're looking at what they do. I'm not suggesting that we're talking about somebody who is filling in at the front desk, is at a primary position to answer the phone. Clearly we're looking at folks who potentially.... And the Auditor General pointed out in 2007 what happened with folks who were actually setting up terms of reference for contracts. So I'm really looking at those sorts of folks.

With my tongue firmly planted in my cheek, Madam Meredith, the term “indeterminate employees” I always find fascinating, quite frankly. I'm not quite sure in human terms what we are. We are FTEs and indeterminates. It never fails to amaze me how human resource managers can come up with new terms for real living and breathing people. But I'll leave that as it is for another discussion.

**Ms. Daphne Meredith:** Thank you.

**Mr. Malcolm Allen:** So really for me the determination is, as Madam Fraser has pointed out, looking at the job specific, because we do hire—albeit 14% worth—folks who make decisions that indeed could have conflict of interest. I'm wondering if you have identified them, put a big star around it, and said you need to do a really good risk assessment of these particular groups of employees. That is, not the employee—not me specifically, if I were the employee—but the groups of employees, so we're actually looking at them and saying we really need to do a risk assessment around this group because of all of the things that won't fit into our nice parameters of the indeterminates.

**The Vice-Chair (Mr. Daryl Kramp):** Thanks, Mr. Allen.

A response, please, from Madame d'Auray.

• (1215)

**Ms. Michelle d'Auray:** This is really an issue where the individual deputy heads have to take into account the nature of their organizations and what is the nature of the risk to their organizations. It is not something we can dictate from the centre. It really has to be done department by department, organization by organization, depending on the nature of the work, depending on the percentage of terms versus temporary help, all of those. It really is dependent on the nature of the organization and the risks.

**The Vice-Chair (Mr. Daryl Kramp):** Fine. Thank you, Madame d'Auray.

And now Mr. Dreeshen, please.

**Mr. Earl Dreeshen (Red Deer, CPC):** Thank you, Mr. Chair.

Again, thanks to our witnesses for being here today.

Madam Fraser, you spoke about the public service awareness for those times when things are awkward so they have something in their back pockets so that they're able to manage those situations. I suppose my question to you would start with, are you satisfied that the departments that you've audited appreciate the value of those clear and properly implemented procedures when it relates to conflict of interest? And secondly, do departments seem willing to assume their responsibilities when it comes to managing conflict of interest and implementing the values and ethics code for the public service?

**Ms. Sheila Fraser:** Certainly in this audit we saw that all of the five departments had put in place the structures, policies, training that were expected under the 2003 code. So I do believe they were taking it seriously.

We do have some recommendations to them that they need to complete risk assessments. And I think it's as we've been discussing earlier, this is sort of a continuous thing; it's not because you put in place the structures that you can say "We've done it and we've taken care of it". As the secretary has pointed out, it is really the ongoing dialogue, communication, and awareness activities that need to continue.

**Mr. Earl Dreeshen:** Thank you.

To Treasury Board Secretariat, we looked at the Canada School of Public Service and I guess I have some questions about that. You also described this "Paving the Way" course that is there that has a section on conflict of interest. I'm interested in information about the course, additional training provided on managing conflict of interest in the school.

Also, in the Auditor General's report, paragraph 4.33, there seemed to be a differential between the training that is geared to managers as well as the difference between middle management and senior management. So I'm just wondering if you could give us a little bit of insight as to what the differences would be or what you feel they would be in those two groups.

**Ms. Daphne Meredith:** Thank you for the question.

As I mentioned a little earlier, the school has at least 30 course offerings that include a significant component of values and ethics training. The values and ethics code would apply to employees, managers, and executives alike. All of them would be trained on the values and ethics code, but depending on their role in the organization, there may be some tailored training—for example, to managers on how to have a conversation with employees around conflict of interest issues. We mentioned earlier the importance of employees feeling knowledgeable enough and comfortable in raising such issues. Sometimes it's the manager who can create the right context for them to do so. Those are perhaps some special elements that might be targeted at managers per se. All of the training, as I mentioned, would be in relation to the values and ethics code that all public servants are to adhere to.

• (1220)

**Mr. Earl Dreeshen:** Recommendation 2, paragraph 434, says:

The Treasury Board of Canada Secretariat should work with deputy heads to identify the common needs of departments and agencies for training that is related to conflict of interest, and should support deputy heads in meeting those needs.

How do you plan to move forward with this particular recommendation, and how will you know once that support is actually there?

**Ms. Daphne Meredith:** Thank you.

We currently have an annual exercise, as I mentioned, the management accountability framework's assessment of departments on values and ethics issues. That is used as a springboard for best-practice discussions. Additionally, it can be used as a mechanism to check with departments on whether the guidance they receive from the centre is enough to support them. We don't want to be the only source of guidance. As the Auditor General's report points out, many departments have a lot of internal guidance that they provide, and we think that's healthy.

There are also collectives of departments that get together and discuss values and conflict of interest issues within their organizations. For example, there's a group of science-based departments that meets regularly on those issues. Where we fully accept and appreciate the Auditor General's advice, it's to have a more formal checking in on an annual basis, say. We'll determine with them the best frequency, but I say on an annual basis to make sure that our guidance is meeting their needs.

**The Vice-Chair (Mr. Daryl Kramp):** Do you have a brief response, Madame d'Auray?

**Ms. Michelle d'Auray:** Briefly.

I've actually just handed over to the Auditor General the changes that we have made to the values and ethics line of evidence, as we call it, in the management accountability framework for 2010-11, which takes up the recommendations that were made in her report, to make sure that we ask specifically what departments have put in place in order to deal with conflicts of interest.

**The Vice-Chair (Mr. Daryl Kramp):** Would it be fair and responsible to ask you to provide a copy of that to this committee?

**Ms. Michelle d'Auray:** We would be quite happy to do so.

**The Vice-Chair (Mr. Daryl Kramp):** Fine. Thank you very much.

Mr. D'Amours, please, five minutes.

[Translation]

**Mr. Jean-Claude D'Amours:** Thank you, Mr. Chair.

Ms. d'Auray, you provided me with an answer earlier, but since my time was over, I was not able to continue.

I would simply like you to confirm something for me, but I do not want to put any words into your mouth. Previously, when you were talking about the values and ethics code and the policy on conflict of interest, you said that this was a simple question but that its implementation was complicated. Is that in fact what you said?

**Ms. Michelle d'Auray:** Yes.

**Mr. Jean-Claude D'Amours:** Could you refer to the document that you sent us, the one entitled "Departmental Action Plan on Conflict of Interest"? Could you take a look at it, please? It is a legal-sized document.

Mr. Chair, while we wait for Ms. d'Auray to find the document, I would ask that you stop the clock.

On the back of the cover page, you can see the word "Introduction". Do you see that?

**Ms. Michelle d'Auray:** Yes.

**Mr. Jean-Claude D'Amours:** Could you please read the first sentence of the third paragraph and stop at the comma?

**Ms. Michelle d'Auray:** Unfortunately, I have it in English.

**Mr. Jean-Claude D'Amours:** You can read it in English if you feel like it, there is no problem with that.

**Ms. Michelle d'Auray:** It is not about whether or not I feel like it, but you are asking me to read this sentence. You have it in front of you, so I am presuming that I can give you my interpretation of this sentence in French: "The new conflict of interest policy..."

**Mr. Jean-Claude D'Amours:** Ms. d'Auray, could you read it in English, please?

[English]

**Ms. Michelle d'Auray:** —"is expected to retain substantially the same requirements as the current policy".

[Translation]

**Mr. Jean-Claude D'Amours:** Thank you.

In French, it says: "The new conflict of interest policy is expected to retain substantially the same requirements as the current policy [...]"

A short while ago, you said that this was a simple matter, but that its implementation was complicated. Heavens, I wouldn't want it to be really complicated for the Treasury Board Secretariat! If it must substantially retain the same requirements as the current policy, how can it be so complicated? The question is simple, but the answer also seems to be simple. You know this, it is written in your opening statement.

If I may, I am going to keep going so that I do not run out of time.

At 9:23 this morning, we were emailed your action plan by your office, the Treasury Board Secretariat. The clerk received it. The committee meeting started at 10 o'clock. Could you tell us exactly when, between 9:23 this morning and the start of this committee meeting, at 10 o'clock, you decided to extend by three months the time required to implement these new policies?

According to the first version, this was to be implemented by the end of March 2011. However, today, you decided to give yourself the entire spring to do this. This all started in 2005, and it was implemented in 2007. You will agree, everything, or nearly everything, is delayed. Certain incidents occur and put you in a situation where you no longer have any choice, but now you are extending the amount of time required to implement this.

Could you be a little bit more serious about this? Let us be clear, you have not been serious about this for years. Between 9:23 this

morning and 10:00 a.m., when the committee meeting started, you gave yourself an additional three months for the implementation of these policies. Could we have some explanation? It is complicated and, at the same time, it is being dragged out. And yet you said that this was simple. That is what is written in the third paragraph.

• (1225)

[English]

**The Vice-Chair (Mr. Daryl Kramp):** Madame d'Auray.

[Translation]

**Ms. Michelle d'Auray:** Thank you, Mr. Chairman.

I would like to mention three things.

First of all, at the end of that paragraph, it also says that the new policy will deal with questions that will be clarified because they were raised since the implementation of the current code. As I explained, we are still discussing two or three issues with our legal counsel. It is substantially the same code, but some issues that were raised, which are different, have been developed since the advent of the 2003 code.

Secondly, with regard to the delays since 2003, 2005, 2007, when the act was adopted in 2005, the code that we have just adopted in 2003 had just barely been implemented; we were still doing that.

You must not forget that we had developed a code of values and ethics for the first time in 2003. The new act was introduced and adopted in 2005. It was supposed to be implemented in 2007 because a code had just been tabled in 2003. A code cannot be applied or integrated quickly when there are 200,000 employees.

**Mr. Jean-Claude D'Amours:** Ms. d'Auray, I would like to be sure that you understand. You can give us all the dates you want. Let's take 2007; that was three years ago. We could take 2005, which would mean five years ago. Every time we hear from the Treasury Board Secretariat, there are delays.

In 33 minutes, you gave yourself three extra months.

**Ms. Michelle d'Auray:** First of all, the committee hearing started at 11 o'clock and not at 10 o'clock. Moreover, we amended the document because we wanted to be in a position to give you a date. We said that it would be in spring because we were not certain that we could achieve this by March.

In order to avoid choosing a date that we were not necessarily in a position to confirm, we agreed on spring 2011.

[English]

**The Vice-Chair (Mr. Daryl Kramp):** Thank you.

Before we go to Madame Faillie for one more question, a little clarification.

The departmental action plan arrived this morning. Subsequently, the Treasury Board did send, after that, a corrected version of the French text, and this was given out. Of course the only difference in it was that the French text was marked as a draft, and it's not. That is the only clarification the chair is offering on the addition of another supplementary action plan. It was simply the one word "Draft" on the other side. It doesn't interfere, obviously, with the context of the departmental action plan as presented.

Madame Faille, you have five minutes.

[*Translation*]

**Ms. Meili Faille:** I would like a clarification please.

The agenda indicates that we are to deal with my motion a little later. Would it be possible to postpone it until next Thursday? I received information from the department that I would like to go over first.

[*English*]

**The Vice-Chair (Mr. Daryl Kramp):** On your motion?

• (1230)

**Ms. Meili Faille:** Yes.

**The Vice-Chair (Mr. Daryl Kramp):** Absolutely, it's up to you.

[*Translation*]

**Ms. Meili Faille:** That would give the committee more time.

[*English*]

**The Vice-Chair (Mr. Daryl Kramp):** If you would like to defer it to another time, that would not be a difficulty, as long as I have concurrence from everybody else around the table.

**Some hon. members:** Agreed.

**The Vice-Chair (Mr. Daryl Kramp):** Do you have a further question for the witnesses today?

[*Translation*]

**Ms. Meili Faille:** I have a supplementary question.

Once again, I would like to pursue the same line of thought as Mr. D'Amours, who seems to want to put some important questions on the table. I will not go on about this at length, but according to the questions that I am hearing around the table, we need more specific information about your action plan. The timetables have to be clarified, the steps taken, and decisions made about who will do what and when. We need additional indicators, and a complete report on what you intend to do and how you will do it. How are you going to measure the progress of this project?

I am really quite perplexed. A little earlier, I gave you a few examples that illustrate how complex it can be to really identify a conflict of interest. However, one thing transcends all that. It is that code that has been in existence for a long time. Despite that, I don't have the impression that the system allows us to find out what is really going on.

I don't know whether other members of the committee have had an opportunity to read about the case involving Mr. Tipple and Mr. Rotor this summer, but this was a case of swindling and cover-up. Those are harsh words, even when uttered by judges. I would like the people from Treasury Board to commit themselves to telling us what they intend to do so that we can truly find out what is going on.

Ms. Meredith, I know you have had a long career as a public servant. Sometimes, it is more difficult because one can trace decisions or situations where you were present. You were present when there were decisions made about Royal LePage, Brookfield and the 2009 process. You appeared before our committee and you said certain things. The reality was completely different. There were

discussions. Certain statements made by the deputy minister and by you did not match up. They were different.

I would like to know what you are going to do. Are you going to show some leadership? How are you going to broach these issues with different departments? You said earlier that in situations where you were uncertain, you did not make any statements. You are at Treasury Board right now, you have to protect your boss, you have to disclose certain things to your boss. There are situations at Treasury Board; you are aware of the case. There is an investigation. We are talking about a weekend in a chalet, of Caribbean and Alaskan cruises, of a golf tournament, a horseback riding day and dinners in restaurants.

[*English*]

**The Vice-Chair (Mr. Daryl Kramp):** Madame Faille, I believe you're out of order. We're getting into personal incidents of potential conflict. This would require investigation or testimony. Today we are discussing guidelines; we are not talking about instances of potential conflict.

[*Translation*]

**Ms. Meili Faille:** She's responsible for—

[*English*]

**The Vice-Chair (Mr. Daryl Kramp):** I would like you to rephrase your question, if you would, and I would be pleased to move forward.

[*Translation*]

**Ms. Meili Faille:** I will reword my question.

What are you going to do so we can find out what's really going on?

[*English*]

**Ms. Daphne Meredith:** Is this a question about the relocation contract?

[*Translation*]

**Ms. Meili Faille:** No. What are you going to do, as head of human resources, to improve the code?

[*English*]

**The Vice-Chair (Mr. Daryl Kramp):** Do you have a response, Madam Meredith?

**Ms. Daphne Meredith:** As I've outlined, we've got a number of measures in place, including structural measures, as well as engagement of the communities who are implementing the values and ethics code, as well as training to embed the principles. We have an active program, and that's what we're doing to reinforce the values and ethics code that we have had in place since 2003.

**The Vice-Chair (Mr. Daryl Kramp):** You have 15 seconds, Madame Faille.

• (1235)

[*Translation*]

**Ms. Meili Faille:** I have no other questions. The fact that she does not want to commit says it all.

**Ms. Michelle d'Auray:** With your permission, Mr. Chair, I'd like to add something. With regard to the commitment that we've made, we created and implemented a consultation network that brings together more than 30 or 40 departments and agencies represented around the table. There are regular discussions on these issues, which take place three, four or five times a year. There is a network of values and ethics consultants who meet regularly and discuss practices.

We have advisers within the organization headed by Ms. Meredith who are available to answer specific questions about conflict of interest issues for which departments want an opinion or at least find out sources of possible advice.

So there are networks, mechanisms and activities that are very specific; activities that we initiate and activities to which we respond. There are measures and approaches.

You mustn't forget that it is also up to general administrators to establish policies, measures and mechanisms within an organization as well as appoint key people who can respond and act as advisers to the employees.

[English]

**The Vice-Chair (Mr. Daryl Kramp):** Thank you very much.

We're well past our allocated time now. I would like to call on our witnesses for any closing statement that they might wish to make.

Madam Fraser.

**Ms. Sheila Fraser:** Thank you, Mr. Chair.

I'd like to thank the committee for the interest in the work that we did on this issue. I think it is an important one that obviously requires ongoing attention. We are very pleased with the response that we received from government in relation to our recommendations.

**The Vice-Chair (Mr. Daryl Kramp):** Thank you very much.

Madam Meredith, do you have any closing statement?

**Ms. Daphne Meredith:** I'd just echo the comments that it is an important issue. It's one of the most important issues that I'm dealing with as chief HR officer. I think the recommendations the Auditor General has given are very useful. We fully intend to respond to them as indicated.

**The Vice-Chair (Mr. Daryl Kramp):** Madame d'Auray.

**Ms. Michelle d'Auray:** Thank you very much.

**The Vice-Chair (Mr. Daryl Kramp):** Just before we dispense with the witnesses, we might be able to finish this rather quickly, so just bear with the chair for about 30 seconds, if you will. If we end up into an elongated period of time, we'll certainly excuse you very briefly.

I would like to mention to the committee members and bring to their attention information forwarded here by the clerk: that for Thursday, December 2, the witnesses we requested from Public Safety Canada are not available. They're looking at an alternate date.

Second, the two draft reports for Thursday that we requested, chapter 1 of the spring 2010 Auditor General's report, "Aging Information Technology Systems", and chapter 4 of the spring 2010 Auditor General's report, "Sustaining Development in the Northwest Territories", will be sent out this afternoon. They will be available for our Thursday meeting.

Is there any discussion on those issues? That is it, then, for committee business for today.

I certainly thank our witnesses for coming here today.

The meeting is adjourned.

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