



Thursday, October 26, 2017

The Subcommittee on the Senate Estimates of the Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

FIFTH REPORT

On September 21, 2017, your subcommittee was given the following mandate by the Standing Committee on Internal Economy, Budgets and Administration (CIBA):

That, notwithstanding the motion of the committee adopted on Thursday, March 10, 2016, to authorize the Audit Subcommittee to examine the recommendations contained in the report of the Auditor General of Canada on senators' expenses, tabled in the Senate on June 9, 2015, relating to senators' expenditures (notion of independent oversight and role of the AG in the future) and the monitoring of senators' expenditures (recommendations 51, 52, 53, 54, 55, 56 and 57) and any other related recommendations, the examination now be conducted by the Subcommittee on the Senate Estimates;

That the study examine the Auditor General of Canada's oversight recommendations;

That the study consider industry best practices in establishing an audit mechanism and be of an appropriate structure; and

That the subcommittee report to the committee no later than October 26, 2017.

Auditor General of Canada's Recommendations

In the June 2015 *Report of the Auditor General of Canada to the Senate of Canada - Senators' Expenses*, twenty-two recommendations were made, seven of which dealt with auditing and oversight. In short, the recommendations in paragraphs 51 to 57 prompt the Senate to create an independent oversight body (recommendation 51) whose membership is composed of non-senators, including the chair (recommendation 52). The position of internal auditor should also be created, who shall report directly to the oversight body (recommendation 51).

An oversight body could have the mandate to assist in interpreting the rules, policies and guidelines of expenses, the ability to review expenses, the authority to make final decisions on the legitimacy of expenses and to hire and terminate an internal auditor (recommendation 53). The oversight body should be open to the public and all reports, minutes and decisions should

also be published on the Senate's website (recommendation 54). It should have direct access to internal and external audit plans (recommendation 55) and have the power to request internal and external audits under its own authority (recommendation 56). Finally, the Auditor General of Canada should be given the role of external auditor for the Senate (recommendation 57).

After receiving its mandate from the Standing Committee on Internal Economy, Budgets and Administration, your subcommittee closely examined the recommendations and considered their applicability as part of an overall audit and oversight mechanism for the Senate. The subcommittee agrees with some of the recommendations, but it finds some to be highly problematic. It agrees on the creation of an oversight body and an internal auditor. It also agrees that the oversight body should work in an open and transparent way with the necessary powers to adequately execute its mandate.

Greater Transparency

Even prior to the findings in the Auditor General's report presented in 2015, the Senate had undertaken several initiatives to become more transparent and accountable. All expenses incurred by senators are proactively disclosed each quarter on the Senate's website. All service contracts for Senators are also published. There have been a number of other measures taken.

It is the opinion of the subcommittee that transparency is the greatest tool. It is the most effective method to ensure accountability by having expenditures disclosed to all Canadians.

Audit and Oversight Principles and Best Practices

Your subcommittee was also asked to examine "industry best practices in establishing an audit mechanism". During its review, it noted some basic principles for the establishment of an effective audit process for the Senate.

Independence: To conduct a proper audit and oversight function, the work must be conducted at all times outside an organization's decision making process, especially relating to the approval of expenditures. The cross-membership between the executive (CIBA) and audit functions should be prohibited. An audit and oversight body should also have full control over its agenda and its processes.

Reporting: Any audit body should report directly to the highest governing authority in an organization. Any review conducted by an audit body also requires response from management as well as monitoring to ensure timely and adequate implementation of actions.

Scope: In an audit and oversight role, the reviewing body should have continuous access to the organization's governing authority, management and all auditors (internal and external).

Accountability of Auditors and Management: According to the information received by the subcommittee, an audit body must have the ability to appoint its internal and external auditors and have an appropriate mechanism to hold management accountable for audit findings.

Proper Meeting Management: An audit body, of five members, should meet regularly and keep proper records of decisions. It should also have the ability to meet when needed without restrictions such as during an intersession.

Transparency: In a parliamentary context, an audit function should be conducted in public where its deliberations are open to public scrutiny. This principle must also respect the rules and conventions related to in camera confidentiality of parliamentary meetings.

Parliamentary Role of the Senate

In reviewing the recommendations from the Auditor General, the subcommittee was mindful of the constitutional role of the Senate as one of the three components of the Parliament of Canada. A clear hallmark of a legislative body is its capacity to regulate itself independently from outside interference. The Senate is a legislative institution and not a federal department or a crown agency. Any recommendations related to an oversight body must be consistent with the rights and privileges of Parliament to regulate its affairs to ensure its independence.

Standing Committee on Audit and Oversight

During its review of the Auditor General's report and the principles of audit and oversight, the subcommittee examined different structures. It came to the conclusion that the creation of a standing committee, under the *Rules of the Senate*, would be the best option. This standing committee would be composed of senators and be modeled after the Standing Committee on Ethics and Conflict of Interest for Senators, with one important difference. The Audit and Oversight Committee (AOC) would meet in public to conduct its business and only meet in camera as permitted under Rule 12-16. (1) of the *Rules of the Senate*, which states:

12-16. (1) Except as provided in subsection (2) and elsewhere in these Rules, a committee may meet in camera only for the purpose of discussing:

- (a) wages, salaries and other employee benefits;
- (b) contracts and contract negotiations;
- (c) labour relations and personnel matters; and
- (d) a draft agenda or draft report.

In addition to the provisions in Rule 12-16.(1), the new committee should also meet in camera for the review of in camera proceedings of other committees.

The establishment of a standing committee would follow the principles outlined in this report. It would report independently and directly to the Senate as the highest governing authority, with no cross-membership between CIBA and AOC.

Your subcommittee believes that such an oversight committee would serve the Senate and Canada more effectively and efficiently if it included oversight of not only senators' travel and living expenses – which comprises only 4.8 percent of the total Senate budget – but would include oversight of all Senate expenditures.

Internal and External Auditors

Following the establishment of the Standing Committee on Audit and Oversight, the new committee should be authorized to hire and direct the work of the internal auditor. The internal

auditor would exist outside the Senate Administration and would have unrestricted access to Senate records, financial information and systems as directed by the committee. The internal auditor would report its findings to the committee, after which the committee would report to the Senate.

Currently, the Senate's annual financial statements are audited by an external auditor appointed and reporting to the Standing Committee on Internal Economy, Budgets and Administration. This practice would be transferred to the Audit and Oversight Committee. The new committee's appointment process would include the assistance of outside experts for the examination of Requests for Proposals, evaluations of proposals and formal interviews with candidates.

In the Auditor General's report, it was recommended that his office be given the mandate to act as the Senate's external auditor. The last audit of the Senate conducted by the Auditor General cost over \$23 million. It is the view of your subcommittee that it is not in the legislative mandate or authority of the Auditor General to be the regular external auditor of a House of Parliament. Indeed, the Auditor General already overstepped his legislative authority in a number of recommendations in his June 2015 report.

Recommendations

Your subcommittee recommends the following:

That the Standing Committee on Internal Economy, Budgets and Administration recommend to the Senate that Standing Committee on Rules, Procedures and the Rights of Parliament develop and propose amendments to the *Rules of the Senate* and any other necessary modifications to the Rules to establish the Standing Committee on Audit and Oversight, with five members, and develop its general mandate consistent with the audit and oversight principles and best practices contained in this report, including an authorization to consider issues on its own initiative;

That any proposed amendments to the *Rules of the Senate* include no cross-membership between members of the Standing Committee on Internal Economy, Budgets and Administration and the Standing Committee on Audit and Oversight;

That the Standing Committee on Internal Economy, Budgets and Administration develop and propose amendments to the *Senate Administrative Rules* (SARS) as required for the proper functioning of the new Standing Committee on Audit and Oversight, including the ability to act independently and to interpret sections the SARS relating to its work;

That consultations be undertaken by the leadership of all caucuses and recognized groups in the Senate to propose amendments to the *Parliament of Canada Act* to provide intersessional authority to the Standing Committee on Audit and Oversight, once the new committee is established and has begun its work. A delay in receiving this intersessional authority should not prevent the committee from beginning its work;

That following the creation of the Standing Committee on Audit and Oversight, appropriate resources be allocated for an internal audit function;

That the Standing Committee on Internal Economy, Budgets and Administration develop and propose amendments to the *Senate Administrative Rules* as required for the proper functioning of the internal auditor;

That the Standing Committee on Audit and Oversight be authorized to hire the external auditor.

Respectfully submitted,

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Chair