

Notes for an address

by

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**Ethics and Accountability in the
Federal Government:
Room for Improvement?**

**Canadian Centre for Ethics
and Corporate Policy**

**8 March 2003
Toronto, Ontario**

Good afternoon everyone.

I am very pleased to be here to talk about ethics and accountability in the federal government. Thank you for inviting me.

Your poster for this event puts forward a question to be answered. It asks if there is “Room for Improvement.”

Well, for those of you who like to get straight to the point, I can tell you the answer is, in a word, “Yes.”

But since a one-word answer is not exactly giving “value for money” as a luncheon speaker, I’ll keep going.

I would like to talk today about our Office’s latest report, which was tabled in Parliament several weeks ago. I’m sure you all heard quite a bit about our audit of the sponsorship program...

I do plan to briefly discuss this particular audit, but, in keeping with the focus of your Centre, what I would really like to do is concentrate on an aspect of the report that did not receive as much attention—our chapter on ethics and accountability.

But first, allow me to set the stage by looking at the changing landscape for our work.

One public opinion pollster has suggested that there is a “new Canadian mindset,” which he calls a “search for certainty.”

His research shows that Canadians are more educated than ever before. They have more access to information. And they have great interest in political issues.

Canadians also place high value on credibility. They hold high expectations of both public and private sector leaders and institutions. In short, they are looking for credible people and credible organizations.

Yet Canadians are also less inclined to trust public institutions and are less engaged in the traditional political system. Trust is no longer given; it must be earned.

What builds trust? Well, telling the truth, delivering on commitments and being open and transparent are all vital. And these are the very foundations of ethical behaviour.

It’s often not the mistake or lapse in judgement itself that erodes trust. It’s the failure to admit the problem, to take responsibility for it, and to fix it.

Accountability and transparency matter as never before. People want greater scrutiny and more vigilant oversight of institutions.

They want to see more stringent adherence to values and ethics on the part of all leaders, which is often referred to as “tone from the top.”

Essentially, I’m talking about the ingredients of good governance.

It’s simple. Whether people are shareholders or taxpayers, they want systems in place to protect their interests.

And for good reason.

When governance falls short in the private sector, investors lose confidence and faith in corporate officers. That’s not good for the economy.

When governance falls short in the public sector, it can waste taxpayers’ dollars, put the health and safety of Canadians at risk, harm our natural environment, or even threaten national security.

Such failures of governance can seriously erode the public’s trust in government. That’s not good for our democratic system.

As part of their “search for certainty,” Parliament and Canadians are increasingly looking for assurances that government is managed well and that public money is spent wisely.

That’s where the Office of the Auditor General comes in. As the government’s external auditors, we give Parliament the information it needs to hold the government to account for how it uses public funds.

With a staff of almost 600 people and an annual operating budget of some \$70 million, we audit most areas of the Canadian government.

This includes about 70 federal government departments and agencies, about 40 Crown corporations (such as CBC, VIA Rail and Farm Credit Canada), and about 10 departmental corporations and about 60 other entities and special audits.

To be effective and credible in our work, we must be independent of government, both organizationally and intellectually. That independence has several safeguards.

First, I am an Officer of Parliament, appointed to a 10-year term—and I have the right to recruit my own staff.

Second, I have the right to ask the government for any information I need to do my job.

And, third, I submit my reports directly to the House of Commons through the Speaker.

I would like to turn now to talk about specific examples of our work, with a particular focus on our recent report.

The Sponsorship Program

Because our audit of the Sponsorship Program has generated so many headlines, I won't dwell too long on it here. Let me simply recount some of the basic facts.

My Office confirmed serious problems in this program over a four-year period. During that time, the program consumed \$250 million of taxpayers' money, and it appears that large amounts went to communications agencies in fees and commissions.

Rules were broken at every stage of the process for more than four years with little evidence of value received for the money spent.

Rules for contracting are not there for the sake of having rules. They are central to maintaining the principles of accessibility, competition, fairness to suppliers, transparency and best value—principles at the core of the government's contracting policy.

I am speaking about breaking, not bending, the rules. In several cases, sponsorship funds were transferred to five Crown corporations using highly questionable methods.

These methods were apparently designed to pay commissions to communications agencies, while hiding the source of funding and the true nature of the transactions. There was little respect for Parliament and the parliamentary appropriations process.

We observed a breakdown in the proper conduct of public business at two levels: in overall program management and in the conduct of specific individuals.

It concerns me, however, that the focus on wrongdoing of individuals could divert attention from the more serious pervasive problems that have a negative impact on how well programs are managed.

While obviously unique, cases such as the sponsorship program raise important questions:

- How could situations like this occur?
- Why did it take so long to deal with them?

I'm very troubled at having to report problems such as this. I fear that they may be generalized unfairly as common occurrences across the public sector and shake the confidence of Canadians in their federal public institutions.

In my experience, excesses on this scale are by far the exception to the rule.

From what I've seen, Canada is very fortunate in the calibre of men and women who make up its public service—the vast majority of whom uphold high ethical standards and take very seriously the need to carefully manage public money to meet the needs of Canadians.

Background to the government's work on ethics and accountability

On that note, I would like to turn to the chapter in our recent report that looks at accountability and ethics.

First, though, let me provide some context.

In 1995, the Auditor General—my predecessor, Denis Desautels—proposed a framework for ethics in government that would focus on a statement of principles, leadership, empowerment of public servants, transparent decision-making, ethics-related training, a mechanism for discussing and reporting ethical concerns, and a continuous process to make ethics a visible part of day-to-day decision-making.

Our report must have struck a nerve because it was followed by a variety of values and ethics initiatives in the federal government. The first major event was the Tait Report in 1996, named after the late John Tait—the chair of the government task force into values and ethics. Our report and the Tait Report signalled an emerging consensus on values and ethics issues.

Today, there is a growing body of experience on how best to promote values and ethics in government. Certain government departments, for example, have initiated significant ethics programs that share a common theme—the belief that ethics is an essential part of a good governance framework that must never be taken for granted.

But they're also realistic. They recognize that values and ethics guidelines alone aren't enough to ensure honesty.

We can't base governance on the hope that people will always be honest. As a result, these ethics programs I mentioned must balance a values- and ethics-based approach with robust financial and management controls.

If you've never heard of the Tait Report, you're not alone. In 2000, the Treasury Board Secretariat said that most public servants hadn't heard of it either, or taken part in any related discussions.

Obviously, the Tait Report's recommendations hadn't been fully implemented. In 2000, we took that report as a starting point for a new study on values and ethics. In our study, which was released the same year, we identified several key challenges:

- First, how do we enforce responsibility for ethical conduct? We thought it took a comprehensive approach that involved the leadership and commitment of parliamentarians, ministers and heads of federal entities.
- Second, we said that parliamentarians must lead by example. The Canadian Parliament had tried to adopt a code of conduct and establish parliamentary ethics commissioners several times. We urged parliamentarians to try again.
- Third, we said the scope of ministerial accountability must be clear. The Tait Report noted that ministerial responsibility touches on the “deepest values of public service in a parliamentary democracy.” If these values start to slide, everything else starts to shift as well. We called upon government to develop a clear statement of ministerial responsibility.

Since that report, we've witnessed a range of high-profile problems in public administration. The management of grants and contributions at HRDC, the firearms registry and the Office of the Privacy Commissioner are examples.

Public trust in government erodes when significant problems in major programs—both actual and perceived—are allowed to persist even though they could have been prevented or corrected.

Over time, the impact of such events can snowball, leading Canadians to call into question the integrity of government as a whole.

The government recognizes this fact, and, over the past two years, has issued a number of documents containing guidelines and principles aimed at improving accountability and ethics. These are the guidelines that we examined in our new study, and which I would now like to discuss.

Accountability and ethics in government

For example, we now have a Guide for Ministers and Guidance for Deputy Ministers, and a management accountability framework for deputy ministers.

Together, these guidelines raise an important question that is central to maintaining trust in government: How, and to what extent, are ministers, deputy ministers and officials to be held responsible and accountable for government actions in the 21st century?

The guidelines attempt to clarify the meaning of responsibility, accountability and answerability, but they fall short on how these principles will be implemented.

Here's a case in point: the Guide for Ministers and Guidance for Deputy Ministers go to some length to distinguish between accountability and answerability.

According to the Privy Council Office, the distinction between these terms is that accountability includes personal consequences for a wrongdoing while answerability only involves explaining why something went wrong.

While some might think this is hair splitting, the Privy Council Office promotes this as useful distinction. By way of note, the British do not make this distinction when they speak about accountability.

Using these distinctions, the Guide for Ministers states that ministers are accountable to Parliament for actions taken in their current portfolio.

They are also accountable for taking steps to correct errors, and for making sure they don't happen again. It also states that current ministers are answerable for actions taken by previous incumbents.

But this begs an important question about the distinction between "answerability" and "accountability."

Let's say an audit reveals problems that arose under the leadership of a former minister. Under these guidelines, the current minister is only "answerable" for the actions of a predecessor. It's not clear who—if anyone—is accountable.

The guidelines are equally vague around the responsibility of deputy ministers. On the one hand, they say that deputies are not accountable to Parliament.

On the other hand, they say that deputies have a duty to give parliamentary committees "an account of their stewardship of the department" for their legislated responsibilities in such acts as the *Financial Administration Act*.

This all makes for a murky distinction between the concepts of "answerable" and "accountable." The government needs to resolve this ambiguity. It needs to clarify whether deputies are accountable to Parliament in their own right for their legislated responsibilities, or simply answerable on behalf of Ministers.

Values and ethics code

Another set of guidelines issued by the government, which took effect in September 1, 2003, focuses on values and ethics for the federal public sector as a whole.

The new Code has both strengths and weaknesses.

On the plus side, it makes deputy ministers responsible for creating a space for public servants to raise issues about the Code, and to resolve matters that arise.

It presents four sets of sometimes conflicting values—democratic, professional, ethical and people values—and acknowledges they must be reconciled in the public interest.

It makes adherence to the code a condition of employment. And it ensures that anyone who breaches the Code can be reported under the government's internal disclosure policy.

On the minus side, it assumes a common understanding for terms such as “public interest,” “objectivity,” “impartiality,” “loyalty” and “integrity.”

While it calls for conflict among values and ethics to be resolved in the public interest, the Code doesn't offer much guidance on how to determine that public interest. Nor does it help reconcile or assign priority to conflicting values.

In short, the government will have to go to great lengths to “decipher” this Code for public servants.

Integrating values and ethics into day-to-day operations

There are other issues with the Code as well. We had recommended the government ensure that all federal entities put comprehensive values and ethics initiatives in place.

Instead, the government chose to give departments considerable latitude. There is neither a model about how to implement a values and ethics initiative, nor deadlines to put it in place, nor resources identified to do it.

The other challenge, now that we have a Code, is to integrate principles into decision-making. The government is aware that senior managers have to set an example.

Unless their managers “walk the talk,” rank-and-file public servants will lose faith in the Code. It will breed cynicism, and undermine everything it’s trying to accomplish.

In our new study, we made several recommendations to ensure the Values and Ethics Code is useful.

- First, the government should define key terms, especially what’s meant by “public interest” and how values and ethics are to be integrated into decision-making.
- Second, it should develop a model for comprehensive departmental initiatives on values and ethics that takes into account risks faced by departments.
- Third, it should ensure departments have the required expertise, a working knowledge of organizational ethics and best practices, and the capacity to train staff in a reasonable time frame.
- Finally, it should identify resources to do the job, and set deadlines to make sure it happens.

Values and ethics in procurement

Let me now talk about values and ethics in procurement.

When it comes to implementing comprehensive values and ethics initiatives, we’ve observed some progress among agencies responsible for major procurements. But this progress must be speeded up.

In October 2000, we found that the Department of National Defence and Public Works and Government Services Canada had the most comprehensive values and ethics programs, and they still do. In fact, we believe their programs could become a model for such programs.

Among other things, they have a departmental statement on values and ethics, an ethics program office, an advisory board, a training course, and a senior champion.

But these departments still need to make major progress. For example, while Public Works officials must follow a procurement process, they do not have to certify that they have actually followed this process.

They only certify that terms and conditions of contracts adhere to departmental policies, regulations and directives. This certification does not cover other important parts of procurement such as solicitation and evaluation of bids.

There is compelling evidence that these areas should be covered. Between 1996 and 2001, Public Works conducted several internal audits that found serious instances of non-compliance in the procurement process.

At the time of our study, Public Works was developing a quality assurance system to improve the contracting process. The department expected to implement the system in the next fiscal year.

But it wasn't clear whether officials would be required to certify that they have followed the key rules for procurement.

There is some good news to report. About 1,400 officials responsible for procurement, materiel management and real property have already received some training in values and ethics.

A professional development and certification program for these officials is in the works. Treasury Board told us it expects to complete the course material by the spring.

Values and ethics in grants and contributions programs

I'd like to also mention grants and contributions programs, which are managed by such departments such as Human Resources Development Canada, Industry Canada and Treasury Board.

In response to earlier problems, Human Resources Development Canada has set up a life-cycle approach that tracks the grants and contributions process. This system enhances accountability by requiring officials to certify they've complied with the entire process.

With respect to values and ethics, the department had taken many of the same steps as Public Works and National Defence. But these had been let go and are now being re-established.

Industry Canada's values and ethics initiative is still in a formative stage. It plans to develop a departmental statement of values and ethics in the next fiscal year.

As for Treasury Board, it has not established the same kind of professional development and certification initiative for grants and contributions as it has for procurement. However, it is encouraging training programs for officials working in this area.

To sum up, there has been a certain amount of progress in the area of value and ethics for procurement and for grants and contributions. But it's inconsistent and slow.

It's time to ensure that officials in both these areas are accountable for due diligence.

We've recommended that the government require all affected departments and agencies to develop quality assurance programs. These programs must include certification at key stages of decision-making.

This is the only way for the public to be confident that rules are being followed.

The need for a robust, credible mechanism to address wrongdoing

As my last topic for the day, I'd like to talk about internal mechanisms for dealing with wrongdoing in the public service workplace.

Study after study has shown that public servants want tools to uphold high values and to maintain ethical standards.

As John Tait said, unless recourse mechanisms are created, all this talk about values and ethics is so much hot air.

A few years ago, Treasury Board's policy on internal disclosure came into effect. The idea was to help the public service do its job—that is, to serve the public interest. It called for departments to designate senior officers to investigate disclosures of wrongdoing.

It also set up the Public Service Integrity Office for public servants who believed their own department would either handle the complaint poorly or punish them in some direct, or indirect, way.

This sounds good on paper. In practice, however, the policy fails to adequately recognize the public service environment. When public servants blow the whistle, they still feel vulnerable to reprisal—even if they report the wrongdoing outside their own department to the Public Service Integrity Officer.

Treasury Board's own survey in 2002 revealed that more than one-third of public servants feared reprisal if they launched a grievance, appealed a decision, or raised a health and safety concern. The numbers were even higher for finance and procurement officers.

The Public Service Integrity Office, or PSIO, can play an important role to increase confidence. But in its first annual report this fall, that office concluded it does not have sufficient support or the confidence of public employees.

The PSIO believes it could play a more effective role if its mandate was legislated, rather than based on a policy directive.

It's time for the Government of Canada to put in place a robust and credible mechanism to address cases of wrongdoing.

The government has said that it would soon be introducing whistle-blower legislation. We hope it gives serious consideration to the recommendations of the Public Service Integrity Office, as it has promised to do.

Conclusion

Ladies and gentlemen, I spoke earlier about Canadians "search for certainty." Quite frankly, I'm not sure if you can ever be certain of anything.

I do know, however, that as Auditor General, it's my job to make the search for certainty a little easier, at least when it comes to government's accountability to Parliament, and to all Canadians.

Over the past few years, the government has attempted to enhance accountability and values and ethics for ministers, deputy ministers and public servants.

Well and good, but it needs to go further. It needs to find out why there have been so many problems in so many major programs, and ask tough questions:

- **Were the responsibilities and accountabilities of ministers, deputies and other officials not sufficiently clear?**
- **Were fundamental values and ethics ignored?**
- **Were results achieved at the expense of due diligence?**
- **Was oversight ineffective?**
- **Were resources and expertise insufficient?**

The government also needs to know:

- **the nature and pervasiveness of the problems;**
- **why senior officials did not intervene to prevent or correct the problems;**
- **whether persons responsible for problems were identified and held accountable; and**
- **what steps were taken to prevent the recurrence of the problems.**

The House of Commons Standing Committee on Public Accounts has doubled its meeting time in an effort to obtain answers to some key questions arising out of our sponsorship audit.

The government is also taking the findings of our audit very seriously. It has launched a public inquiry, appointed a special counsel to recover funds and embarked on a review of the governance of Crown corporations.

I hope that the independent public inquiry will shed light on these issues and get at the root causes of the problems that have been identified. Only then can the government ensure that the problems won't happen again.

One final thought: While it is the role of my Office to be critical, ultimately I believe we play a constructive part in maintaining the confidence of Canadians in government.

We do it, in large measure, by embodying and promoting the values of accountability, transparency and protection of the public interest.

My staff and I are extremely proud to be part of a long history of dedicated service to Parliament and to Canadians, and to play a unique and important role in making Canada a better country for all of us.

Thank you.