

Shareholder's Expectations For British Columbia Crown Agencies

Crown Agencies Resource Office
Ministry of Finance



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Shareholder's Expectations for British Columbia Crown Agencies

British Columbia's Crown agencies play a vital role in advancing the government's policy priorities and strategic objectives; and in providing valuable public sector services such as hydro-electricity, education, health and social services. Strengthening BC Crown agency corporate governance is central to the Province's commitment to delivering transparent and accountable government to the citizens of British Columbia.

In British Columbia, Cabinet assumes the shareholder's role with lead accountability for Crown agencies, and appoints Ministers Responsible as the shareholder's representative and main interface between government and Crown agencies.

The Shareholder's Expectations for British Columbia Crown Agencies is a companion guide to the *BEST PRACTICE GUIDELINES - Governance and Disclosure Guidelines for Governing Boards of BC Public Sector Organizations* and documents the *Crown Agency Accountability System*, the Cabinet approved policy framework for the governance of British Columbia's Crown agencies. It outlines the expectations that government has for how Crown agencies and government will work together to meet their respective roles and responsibilities. This manual is a statement of government's general expectations, and government may determine that specific exceptions are necessary. Government is committed to continuous improvement and expects to update the manual as required in response to changing needs, expectations, processes, policies, and advances in good practices.

The Crown Agencies Resource Office is charged by government with implementing the governance framework for Crown agencies, and has lead responsibility for the *Crown Agency Accountability System*. The Crown Agencies Resource Office provides government and Crown agencies with the advice, information, and support necessary to promote good governance, continuous improvement and accountability for Crown agencies.

Crown Agencies Resource Office

Ministry of Finance

617 Government Street

Victoria, BC

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1

Government's Expectations – Overview

Introduction

The Minister of Finance has developed, and Cabinet has approved, a policy framework for the governance of British Columbia's Crown agencies. The purpose of the *Crown Agency Accountability System* is to provide Crown agencies with superior means to achieve government's policy and performance expectations in an open, transparent and accountable manner. The system clarifies and details the respective roles of government (as the shareholder and mandating body for Crown agencies) and Boards of directors (as the steward/management body with fiduciary responsibility for operations). Effective governance aids government and Crown agencies by ensuring that Crown agencies focus on those activities necessary to fulfill their mandates and that they are managed in the public interest.

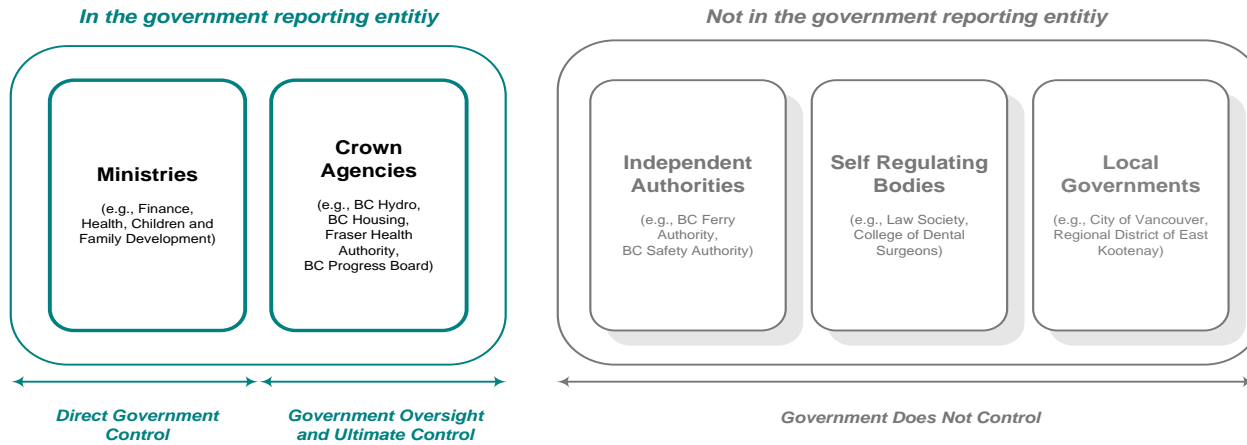
Purpose

This manual is a guide to the *Crown Agency Accountability System*, and outlines the responsibilities and expectations of government, Ministers Responsible, Crown agency Boards, and ministry and Crown agency staff relative to the corporate governance of Crown agencies in British Columbia. The manual contains information on all of the key shareholder's functions related to Crown agencies.

What Are Crown Agencies?

Crown agencies are public sector organizations, other than ministries, within the Province's government reporting entity. As depicted in Figure 1, they are administered at varying levels of independence from government, but are within government's ultimate control under standards defined in the *Canadian Public Sector Accounting Board Handbook*. The financial and legal tests for control include, but are not limited to, government's appointment or removal of a majority of the Board, holding the majority of shares, access to assets, or responsibility for obligations. Independent authorities, self-regulating bodies and local governments are also public sector organizations, but do not meet the criteria of government control from an accounting perspective, and are otherwise outside the government reporting entity. The governance and operation of British Columbia's independent authorities, self-regulating bodies and local governments are beyond the scope of this manual.

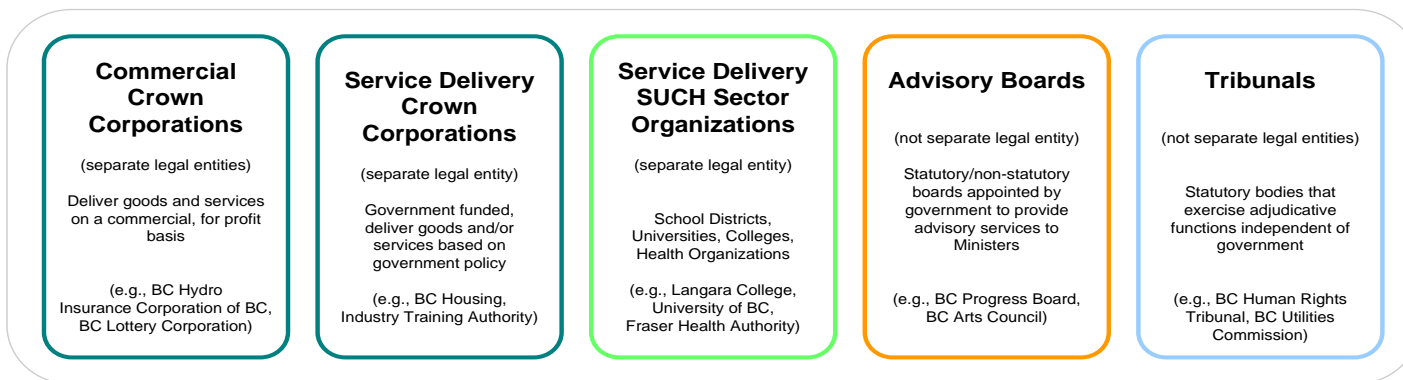
Public Sector Organizations



Application of the Crown Agency Accountability System

Not all of British Columbia’s approximately 200 Crown agencies are subject to the same governance and accountability requirements. As illustrated on the next page, application of the *Crown Agency Accountability System* to each Crown agency will depend on its function and classification (as defined by applicable government control mechanisms). Functionally, government may establish a Crown agency to deliver goods and services on a commercial or for-profit basis, or to deliver goods and services based on government policy and funding, or to serve as a decision-making or advisory body to government and the public. A Crown agency’s classification depends on its level of operational independence and decision-making authority and in the planning, performance reporting and oversight requirements established by the shareholder. The first three Crown agency classifications shown in Figure 2 are Commercial Crown Corporations, Service Delivery Crown Corporations and SUCH sector organizations (e.g., schools, universities, colleges and health authorities). Commercial and Service Delivery Crown Corporations are separate legal entities, subject to all aspects of the governance and accountability requirements outlined in this manual. SUCH sector organizations are also separate legal entities, but are subject to accountability frameworks developed by SUCH sector ministries (Ministries of Advanced Education and Labour Market Development, Education, and Health Services), including financial and performance reporting requirements. While SUCH sector organizations are exempt from the service plan and annual service plan report requirements established in the *Budget Transparency and Accountability Act*, they do prepare business plans and reports based on established practices. Labour relations and human resource policies applicable to the Ministries Responsible also apply to SUCH sector organizations. School Boards, as elected bodies, are exempt from government’s Board appointment process.

Figure 2 – Crown agencies within the government reporting entity



The next two classifications in Figure 2 are Advisory Boards, which provide general or specialized advice to government, and Tribunals which provide adjudicative or quasi-judicial decision-making services. Advisory Boards are not separate legal entities from government and are subject to the financial and administrative accountability mechanisms applicable to the Ministry Responsible’s branches and programs. Statutory Advisory Boards may have additional requirements in their enabling legislation, such as the preparation of an annual service plan report. Labour relations and human resource policies applicable to the Ministries Responsible also apply to Advisory Boards. Tribunals are created by statute to exercise adjudicative functions independent of government, but are subject to the financial and administrative accountability mechanisms that apply to the Ministry Responsible’s branches and programs. Many tribunals also have separate statutory reporting requirements. In addition to the authorities set out in their own enabling legislation, a number of Tribunals have additional powers under the *Administrative Tribunals Act*. Further information and advice on Tribunals may be obtained from the Administrative Justice Office of the Ministry of Attorney General.

This manual provides information specific to Commercial and Service Delivery Crown Corporations within the family of government reporting entity Crown agencies (Figure 3). The governance and accountability requirements that apply to SUCH sector organizations, Advisory Boards and Tribunals rest with the Ministries Responsible for these classifications of Crown agencies, and are beyond the scope of this manual. Information concerning these classifications of Crown agencies should be obtained from the applicable Ministries Responsible.

Figure 3 – Crown Corporations



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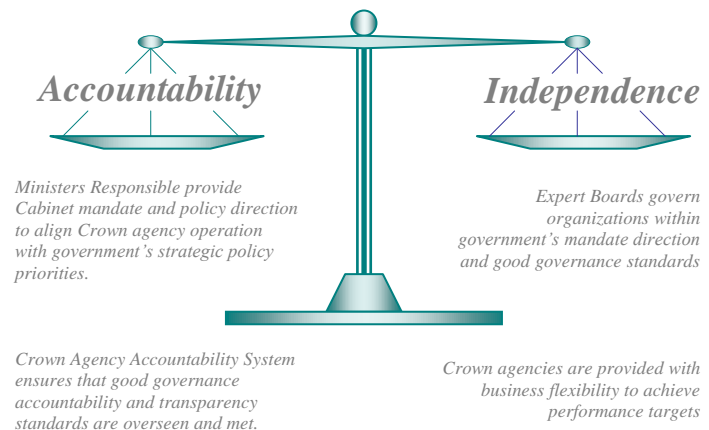
Crown Agency Accountability System – Overview

The *Crown Agency Accountability System* clarifies how and when government provides direction to Crown agencies and defines the roles, responsibilities, and accountabilities of those involved in Crown agency governance and performance reporting. The System is based on three foundations:

Active Shareholder Ownership	Strong Boards	Transparency
<ul style="list-style-type: none">• Clear and transparent mandate direction from government to Crown agencies• Clear oversight policies and procedures• Distinction between government and Crown agency roles and responsibilities	<ul style="list-style-type: none">• Skills and merit-based Board appointments• Best practice guidelines for Board governance	<ul style="list-style-type: none">• Minister Responsible accountable to Legislative Assembly for Crown agencies• Select Standing Committees and Officers of the Legislative Assembly review of Crown agency matters• Crown agencies subject to disclosure and accountability legislation• Transparency and accountability of information

The Accountability Balance

Government balances its responsibility for overseeing Crown agency performance with the need for operational independence by Crown agencies. The *Crown Agency Accountability System* balances the need of government to ensure a Crown agency’s actions are consistent with government policies and that an agency is accountable and transparent - with the need for Crown agencies to make independent decisions within their mandates, have flexibility to operate in a commercially competitive environment, and encourage investment or partnerships with non-governmental interests.

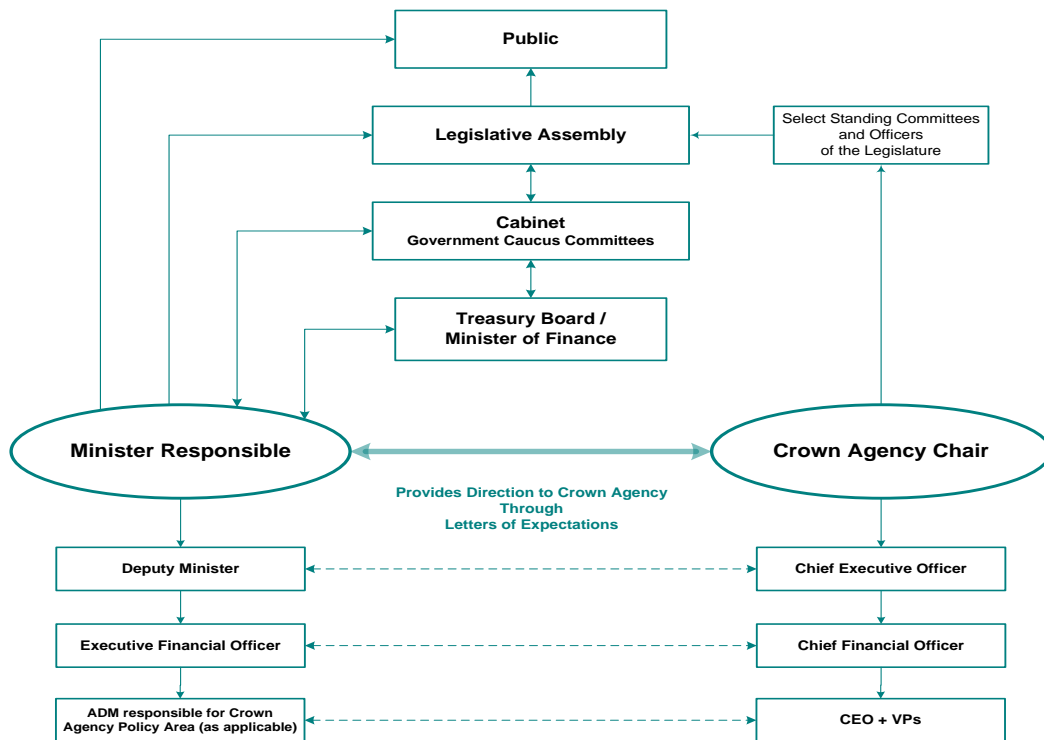


Governance Principles – the accountability system is principles-based rather than rules-based:

1. **Public Interest** – Crown agencies are instruments of public policy as mandated by Cabinet and the Legislative Assembly.
2. **Strong Minister/Strong Board** – the Minister Responsible is accountable for ensuring that Cabinet’s direction is provided to a Crown agency, and for clarifying that direction to the Legislative Assembly; in addition to fiduciary duties, Crown agency Boards are accountable for governing and overseeing the management of the corporation within direction provided by the Minister Responsible and the government’s governance guidelines.
3. **Leadership and Ethics** – Crown agencies must adhere to uniform standards of conduct established by government (i.e., *Standards of Ethical Conduct for Public Sector Organizations*).
4. **Transparency and Accountability** – Government is transparent in planning, providing direction to and reporting on its Crown agencies; public regulators protect ratepayer interests.
5. **Efficiency and Effectiveness** – Government’s accountability regime for Crown agencies is designed in a manner that is efficient for Crown agencies and supports their superior performance.
6. **Proportionality** – Crown agencies are given those powers and authorities required to deliver their mandate.
7. **No Surprises** – Ministers Responsible and Crown agencies work together to ensure open communication.

Governance Model

As illustrated here, Cabinet appoints a minister to be responsible for each Crown agency. Under this framework, the Crown agency Board of directors is accountable to Cabinet through a designated Minister Responsible, and each Minister Responsible is accountable to the Legislative Assembly and the public for the performance of his or her portfolio of Crown agencies.



Key Features of the System

Ministerial Responsibility

A Minister Responsible is accountable to the Legislative Assembly for each Crown agency, including responsibilities specified by the Crown agency's enabling statute (if it is a statutory Commercial or Service Delivery Crown Corporation) and responsibilities established by the *Budget Transparency and Accountability Act* and the *Balanced Budget and Ministerial Accountability Act* (including tabling service plans and annual service plan reports with the Legislative Assembly). Ministers Responsible are also expected to respond to Crown agency issues brought forward during Question Period and the Budget-Estimates Debate process.

Creation and Dissolution of Crown Agencies

Cabinet approval is required to create a Crown agency, along with approval by the Legislative Assembly in the case of a Crown agency created by statute. Dissolution of a Crown agency must be approved by Cabinet and be consistent with any statutory requirements applicable to that Crown agency.

Mandate and Policy Direction

Crown agencies must ensure that their operations are aligned with and delivered according to government's strategic priorities and policy objectives. For its part, government ensures that clear mandate and policy direction is provided, but does not interfere in the day-to-day operations of a Crown agency. Government's mandate and policy direction is provided to a Crown agency in a variety of ways:

- Enabling legislation or articles of incorporation are created upon establishing a Crown agency.
- The Minister Responsible is accountable for providing the shareholder's (Cabinet) mandate and policy direction to his or her portfolio of Crown agencies. In order to convey this direction government and Crown agencies enter into annual Shareholder's Letters of Expectations. The Letters are reviewed by Cabinet Committee, approved by Cabinet, and subsequently signed by the Minister Responsible (as the shareholder's representative) and the Chair of the Board (as the Crown agency's representative). These documents convey government's broad mandate and policy direction and its high-level performance expectations. These documents are publicly available and posted on both Crown agency and government websites.
- Directive letters, regulations or special directions may be issued by the Minister Responsible, Cabinet and/or Treasury Board to provide more specific policy direction and performance expectations to a Crown agency. Government may also direct Crown agencies to comply with

broader policy directives relating to major cross-Crown priorities that affect all Crown agencies (e.g., environmental policy; trade agreements; procurement standards; capital asset management; labour relations and executive compensation policy; etc.).

- Service Level Agreements may be undertaken for some Crown agencies. These are contracts between Ministers Responsible and Crown agencies setting out government's funding arrangements and expectations for services provided by the Crown agency.
- Service plans and annual service plan reports are part of the government's larger performance management and accountability framework that covers Crown agency planning, performance measurement and reporting. Crown agency Boards of directors are ultimately accountable for achieving the intended performance results documented in these plans and reports. However, because Ministers Responsible are required under the *Budget Transparency and Accountability Act (BTAA)* to table service plans, Ministers will review and approve these plans and reports prior to finalization, to ensure consistency with: the *BTAA*, government's strategic priorities and Fiscal Plan, the Public Accounts, and with the direction provided in the Shareholder's Letter of Expectations.

Appointment/Remuneration of Boards

Cabinet and/or Ministers Responsible typically appoint the majority, or all, of the members of a Crown agency Board. A skills matrix is used to support merit-based appointments and the recruitment and appointment process is supported by the Board Resourcing and Development Office. Government does not appoint elected provincial officials to Crown agency Boards, and only in very rare instances should public servants be appointed. Treasury Board has approved the *Remuneration Guidelines for Appointees to Crown Agency Boards* to ensure a consistent and transparent approach to remuneration for individuals appointed to Crown agency Boards.

Communication

In carrying out their duties, Ministers Responsible rely on a "No Surprises" commitment with Crown agencies, entailing:

- Open communications and full and timely information sharing with and by Crown agency Board Chairs and Chief Executive Officers; and
- Mutual support and cooperation between Ministry Responsible and Crown agency staff.

Minister's Responsible and Board Chairs regularly inform each other of ongoing issues and discuss how to address them. It is recommended that Ministers Responsible and Board Chairs meet in person at least quarterly and engage in regular communication.

Board Corporate Governance

Government has published best practice corporate governance guidelines – the *Governance and Disclosure Guidelines for Governing Boards of BC Public Sector Organizations* – to support consistent practices and application of recent advances in good corporate governance. The Crown Agencies Resource Office and the Board Resourcing and Development Office have also published a series of good practices checklists to support strong corporate governance and accountability in BC Crown agencies. These Checklists incorporate good practices used in the public and private sectors, and are intended to provide guidance for BC’s Commercial and Service Delivery Crown Corporations. Crown agency Boards of directors also have a fiduciary duty to the Crown agency.

Financial/Performance Planning and Reporting

The *Budget Transparency and Accountability Act (BTAA)* stipulates that Commercial and Service Delivery Crown Corporations must prepare three year service plans and annual service plan reports outlining performance objectives and targets. Ministers Responsible are accountable for ensuring these service plans are tabled annually in the Legislative Assembly along with the government’s Budget, and for ensuring annual service plan reports are tabled along with the government’s Public Accounts. The *BTAA* requires that the service plans of Crown corporations be consistent with government’s strategic priorities and Fiscal Plan (including the government’s fiscal forecasts).

The Auditor General has initiated a process of systematically reviewing and assessing a sample of Crown corporation annual service plan reports against the *BC Reporting Principles*. These are a set of eight principles developed jointly by government and the Auditor General, and approved by the Public Accounts Committee. The *BC Reporting Principles* outline the approach to reporting information by Crown agencies (and ministries) to ensure transparency, reliability and relevance of reporting. The Auditor General’s report entitled *Building Better Reports* is presented annually to the Legislative Assembly and reviewed by the Public Accounts Committee.

The *BTAA* also requires that Commercial and Service Delivery Crown Corporations provide financial reports to the Minister of Finance for inclusion in government’s Fiscal Plan, Quarterly Financial Reports and Public Accounts.

Audit

Crown agencies establish an audit function which is typically under the guidance of an audit committee of their Board. The Internal Audit and Advisory Services Branch of the Ministry of Finance may also conduct audits upon the request of Treasury Board or a Crown agency Board. Each year, the Auditor General prepares a plan for the appointment of financial statement auditors for Crown agencies, which is presented to the Select Standing Committee on Public Accounts

for approval. The Auditor General may choose to act as the external auditor for the first three years of a Crown agency's existence. The Auditor General may also undertake value-for-money audits, special examinations or risk audits of Crown agencies. In doing so, the Auditor General may work in tandem with an independent external auditor and will work with a Crown agency's audit committee. Crown agency Boards are responsible for ensuring annual financial statement audits are completed.

Disclosure

Crown agencies are normally subject to government's disclosure legislation. This includes the *Budget Transparency and Accountability Act*, the *Freedom of Information and Protection of Privacy Act*, the *Financial Information Act*, the *Financial Administration Act* and the *Public Sector Employers' Act*. Crown agencies are also generally subject to the *Ombudsman Act*.

Commercial and Service Delivery Crown Corporations are required to post their Shareholder's Letters of Expectations, service plans, annual service plan reports, annual *Financial Information Act* statements of employee remuneration and supplier expenditures, and annual *Public Sector Employers Act* executive compensation disclosure on their websites. The Crown Agencies Resource Office website includes general and specific information for Crown agencies on disclosure requirements.

Legislative Oversight

Crown agencies may be involved in the work of the Select Standing Committees of the Legislative Assembly, including the Select Standing Committees on Crown Corporations and Public Accounts. The Select Standing Committee on Crown Corporations reviews the service plans and annual service plan reports of Commercial and Service Delivery Crown Corporations and tables reports in the Legislative Assembly outlining its findings and recommendations. The Committees may call ministers, senior ministry staff and/or Crown agency Board members or executives to appear as witnesses.

Appointment/Remuneration of Chief Executive Officers

With the exception of a very small number of (statutory) Crown agencies, Crown agency Boards appoint their Chief Executive Officers. The *Public Sector Employers Act* requires that Crown agency Boards receive the approval of the Minister Responsible for the administration of the Act, as Chair of the Public Sector Employers' Council, for their executive compensation plans, including Chief Executive Officer remuneration.

Human Resources and Labour Relations

Crown agencies must comply with the *Public Service Employers Act* which includes requirements relating to severance and overall conditions of employment. Crown agency labour relations mandates and executive compensation plans must be approved by the Minister Responsible for the administration of the Act.

Setting of Rates and Fees

Some Crown agencies (e.g. commercial Crown corporations such as BC Hydro, BC Transmission Corporation and the Insurance Corporation of British Columbia) may have their tariffs, charges or fees regulated. The BC Utilities Commission is one of the independent agencies that carry out these regulatory functions.

Crown agencies funded by government (e.g. Service Delivery Crown Corporations) must obtain Treasury Board approval for new fees, or revisions to existing fees. Fee revisions include increases, decreases, eliminations and exemptions. The approval requirement also applies to licenses, fines and other user charges or penalties. Further information may be obtained from Treasury Board Staff.

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Roles and Responsibilities

Clarity of roles and responsibilities is central to good governance practices and achieving government's accountability and performance reporting requirements for Crown agencies. Each functional area of government involved with Crown agencies, from the provision of mandate and policy direction to management or oversight, has unique responsibilities within the *Crown Agency Accountability System*, and is summarized below.

Legislature

Legislative Assembly

Role: Ultimate representative of the public's interest

Responsibilities:

- Approves Crown agency-related legislation and appropriations (including the enabling legislation of statutory Crown agencies).
- Establishes legislative committees to oversee government and Crown agencies (e.g. Select Standing Committee on Public Accounts, Select Standing Committee on Crown Corporations).
- Appoints and supports Officers of the Legislative Assembly who may investigate/review Crown agencies.

Officers of the Legislative Assembly

Role: Independent of government and report directly to the Legislative Assembly

Responsibilities:

- Oversee Crown agencies by providing assessments and advice concerning:

- Government accountability and performance (the Auditor General);
- Fairness of administrative practices and services of public agencies (the Ombudsman);
- Collection and processing of information requests, and the use of personal information (the Information and Privacy Commissioner);
- Conflict with private interests (the Conflict of Interest Commissioner); and
- Requirements of the *Public Service Act* (the Merit Commissioner).

Auditor General

Role: Provides assessments and advice about government accountability and performance; as external auditor, comments on accuracy of financial statements

Responsibilities:

- Prepares annual financial statement coverage plans for approval by the Select Standing Committee on Public Accounts, and may act as the external auditor for the first three years of each Crown agency's existence, acts as auditor of Crown agencies on a rotational basis, or oversees private sector auditors for Crown agencies.
- Undertakes periodic audits and/or special examinations of Crown agency operations and finances.
- May undertake reviews of Crown agency performance reporting.

Legislative Committees

Role: Determined by the Legislative Assembly

Responsibilities:

- Consider specific issues and report their observations and recommendations directly to the Legislative Assembly:
 - Select Standing Committee on Crown Corporations reviews Crown agency service plans and annual reports and tables a report in the Legislative Assembly outlining its findings and recommendations; and
 - Select Standing Committee on Public Accounts reviews reports of the Auditor General, including those relating to annual reviews of selected Crown agencies' annual reports.

Executive Government

Cabinet

Role: Sets mandate direction for Crown agencies; ensures Crown agency mandates and activities are consistent with the interests and intent of government and in compliance with applicable legislation.

Responsibilities:

- Approves Crown agency creation and dissolution.
- Sets Crown agency mandates, powers (including funding/revenue-generation capacities), and governance requirements/policies.
- Determine which legislation, regulations, cross-Crown policies, accountability mechanisms, and regulatory oversight frameworks apply to Crown agencies.
- Assigns a Minister Responsible to each Crown agency.
- Approves the making and rescinding of Board appointments (except School Boards which are locally elected).
- Approves Shareholder's Letters of Expectations for Crown corporations.
- Periodically directs Crown agency mandate reviews to be undertaken; and make decisions on the results.

Treasury Board

Role: Responsible for government's Budget and three-year Fiscal Plan, and other policies that may impact the Fiscal Plan.

Responsibilities:

- Recommends appropriations for Crown agency funding.
- Issues directives on remuneration for Crown agency Board members.
- Ensures that each Crown agency's financial information is incorporated in government's Fiscal Plan.
- May establish financial, accounting, and/or dividend policies and practices for Crown agencies.
- Obtains financial information (including the disbursement of public money) from Ministers Responsible and Crown agencies for planning and reporting.
- May review Crown agency financial plans.

Minister of Finance

Role: Advises Cabinet on government budgetary and financial matters related to Crown agencies; advises Cabinet on Crown agency governance.

Responsibilities:

- Leads on the *Crown Agency Accountability System*, is accountable for the governance framework for Crown agency management.
- Fulfills government's fiscal reporting responsibility to the Legislative Assembly.
- Manages government's liabilities as they relate to Crown agencies.
- Recommends Crown agency exemptions from *Budget Transparency and Accountability Act* requirements for service plans and annual reports.
- Approves, where appropriate, Crown agencies' indemnities and guarantees.
- Acts as Crown agencies' fiscal agent (as applicable).
- Tables the Province's annual Budget, Fiscal Plan, Financial and Economic Review, Estimates, Budget Consultation Paper, Public Accounts and Quarterly Reports.
- Is accountable for banking, accounting, financial and economic planning and reporting.
- Is accountable for risk and debt-management and capital-project oversight services.
- Approves policies for regulating financial and real estate sectors, and tax policy.

Ministers Responsible

Role: Key link between government and Crown agencies; ultimately accountable to government for Crown agencies, from their creation through to their dissolution

Responsibilities:

- Are accountable for clarifying government's direction to a Crown agency in the Legislative Assembly.
- Seek Treasury Board and Cabinet approval for Crown agency start-up and dissolution.
- Seek Treasury Board and Legislative approval for appropriations to support Crown agency operations.
- Seek Treasury Board approval for Crown agency requests.
- Approve, and/or seek Cabinet approval for, appointment of Crown agency Board members.
- Foster an effective working relationship with Crown agency Board chairs and senior management, including regular communication and informing chairs of policy directions or information requirements that may materially impact operations.

- Communicate Cabinet mandate, commitments, performance expectations and ongoing policy direction to Crown corporation Boards through Shareholder’s Letters of Expectations, Directive Letters, and ongoing communication.
- Sponsor and seek Cabinet and/or Legislative approval for legislation, regulations and orders required to fulfill Crown agency mandate direction.
- Fulfill any ministerial roles and responsibilities indicated in Crown agency enabling statutes.
- Set ministry-specific policies that may be relevant to Crown agency operation.
- Ensure Crown agency implementation of Cabinet mandate direction (or seek Cabinet approval for proposed mandate changes).
- Review and ensure Crown agency bargaining mandates and non-union compensation plans support Cabinet mandate directions and service plans.
- Review and approve Commercial and Service Delivery Crown Corporation service plans and annual reports for tabling in the Legislative Assembly.
- Respond to public enquiries regarding government’s direction to Crown agencies.
- Informs the Minister of Finance of Crown agency issues that may materially impact government’s financial reporting or planning.

Minister Responsible for administration of the *Public Sector Employers Act*

Role: Chair of the Public Sector Employers’ Council

Responsibilities:

- Ensures adherence to the *Public Sector Employers Act*, and establishes and approves Crown agency executive compensation plans, termination standards and sets the mandate for collective bargaining (unless a Crown agency is scheduled under the *Public Service Act*).

Crown Agencies

Board Chairs

Role: Key link between government and Crown agency; advises Ministers Responsible of issues that materially impact Crown agency business or the Ministers’ interests and accountabilities

Responsibilities:

- Foster an effective working relationship with the Minister Responsible, including ensuring he or she (or his/her representative) is provided with the information and advice needed to respond to questions from members of the Legislative Assembly and to fulfill government’s responsibilities.

- Remain cognizant of how Crown agency issues might affect government and inform the Minister Responsible of potentially contentious issues, major financial changes and any potential new initiatives that could materially impact government interests.
- Receive government's mandate direction through Shareholder's Letters of Expectations, Directive Letters, and ongoing communication.
- Appear as witness at Legislative Committees, as required.

Boards of Directors

Role: Govern Crown agencies in a manner consistent with Cabinet's mandate and policy directions; ensure Crown agencies comply with government's financial and other policies and applicable legislation; accountable for Crown agencies' performance and achievement of mandate direction

Responsibilities:

- Meet fiduciary obligation to act in the best interests of the Crown agency.
- Establish Board policies and procedures that are consistent with and meet government's governance standards as set out in the *Best Practice Guidelines*.
- Ensure Crown agency management is in compliance with statutory obligations and applicable legislation (e.g. *Public Service Employers Act* requirements).
- Approve the strategies, policies and plans necessary to fulfill government's direction.
- Hire and terminate Crown agency CEOs (unless otherwise specified in the Crown agency's enabling legislation), review CEO performance, and oversee succession planning for senior management.
- Ensure Crown agency adherence to financial and other reporting obligations to government.
- Fulfill any responsibilities under enabling legislation (e.g., statutory decision-making powers).
- Monitor and reports on Crown agency progress in fulfilling government direction and inform the Minister Responsible of any significant variances from planned targets (reflecting unexpected successes or shortfalls).
- Oversee the development of and approve (based on review and approval by the Minister Responsible) service plans and annual service plan reports.
- Respond to enquiries from Legislative Assembly Officers.

CEOs / Senior Executives

Role: Manage Crown agency daily operations under the Board's stewardship and direction

Responsibilities:

- Provide leadership, general supervision, management and control of Crown agency day-to-day operations in accordance with Board-approved plans and policies.
- Provide leadership and vision in developing the strategies and plans necessary to realize operational objectives.
- Manage Crown agencies to ensure business plans are effectively implemented, results monitored and reported to the Board, and financial/operational objectives attained.
- Liaise with Deputy Minister (Minister Responsible) and government staff as required.

Government Staff

Deputy Minister

Role: Main advisor to Minister Responsible

Responsibilities:

- May be delegated authorities of a Minister Responsible for specified purposes.
- Acts as main advisor to Minister Responsible on Crown agency matters.
- Liaises with Crown agency CEO and senior staff (and Board chair as required).

Ministry Responsible Staff

- Works with the Crown Agencies Resource Office as required in support of Crown agencies regarding *Crown Agency Accountability System* requirements, such as reviewing and advising on service plans and annual service plan reports.
- Provides advice and receive direction from the Minister Responsible in developing Letters of Expectations, and Service Level Agreements (where applicable).
- Provides advice to and receive direction from the Minister Responsible regarding Crown agency establishment or dissolution.
- Monitors to ensure Crown agency budget and financial reporting requirements are met.
- Ensures the administration of remuneration for Crown agency Boards is consistent with Treasury Board direction.

Ministry of Regional Economic & Skills Development - Crown Agencies Resource Office

- Develops, maintains and facilitates the implementation of the *Crown Agency Accountability System*.
- Provides guidelines and advice to ministries and Crown agencies on meeting *Crown Agency Accountability System* requirements, such as service plans, annual service plan reports and Shareholder's Letters of Expectations.
- Liaises with the Select Standing Committee on Crown Corporations and the Auditor General.
- Provides policy advice and guidance on governance issues that apply to Crown agencies.
- Provides advice on the establishment, mandate reviews and dissolution of Crown agencies.
- Maintains the Crown agency registry, and updates guidelines and related publications as required.
- Facilitates awareness and application of cross-Crown policies and procedures.

Ministry of Finance - Treasury Board Staff

- Supports Treasury Board in the development and management of government's Budget and three-year Fiscal Plan.
- Provides financial oversight and policy input for Ministries Responsible for Commercial and Service Delivery Crown Corporations.
- Compiles financial and forecast information from Crown agencies for incorporation into the Budget and Fiscal Plan, Estimates, and Quarterly Reports; monitor risks and variances to the Fiscal Plan; advises Treasury Board on policy proposals with financial implications.
- Reviews Ministry Responsible requests for Crown agency funding.
- Provides advice on Fiscal Plan impacts of Crown agency establishment or dissolution.

Ministry of Finance - Office of the Comptroller General

- Collects quarterly Summary Financial Information from Crown agencies and prepare the Public Accounts.
- Liaises with the Public Accounts Committee and the Auditor General.
- Provides accounting policy advice to government and Crown agencies (as requested).
- Provides internal audit services (as requested).
- Provides advice on Crown agency status, establishment and dissolution from an accounting perspective.

Ministry of Finance - Provincial Treasury

- Reviews and approves indemnities and guarantees issued by Crown agencies (as applicable).
- Provides services (representing the Minister of Finance as fiscal agent) related to Crown agencies' borrowing, procurement of banking activities, offset interest program, and risk management advisory, financing and consulting services.
- Provides debt-management and advisory services for Crown agencies' project financing.
- Provides advice on Crown agency establishment and dissolution.

Ministry of Regional Economic & Skills Development – Public Sector Employers' Council Secretariat

- Reviews and provides advice to the Minister Responsible for the *Public Sector Employers Act* concerning Crown agency labour relations mandates and non-union (including executive) compensation plans.
- Sets/coordinates strategic direction and policies affecting Crown agency human resources/labour relations practices.
- Secretariat for the Appointee Remuneration Committee which oversees implementation of Treasury Board directives on remuneration for Crown agency Board members.

Ministry of Attorney General - Legal Services Branch

- Works with the Crown Agencies Resource Office, Treasury Board Staff, and Office of the Comptroller General, to provide legal advice to government regarding Crown agencies.
- Identifies legislative implications related to Crown agencies and their possible establishment, mandate review, dissolution, intergovernmental agreements or obligations, contractual obligations, and enabling legislation.
- Prepares Requests for Legislation for Crown agencies.

Ministry of Finance - Board Resourcing and Development Office

- Supports the Crown agency Board recruitment and appointment process.
- Provides advice and recommendations to Cabinet or Ministers Responsible related to the appointment of Crown agency Board members.
- Responsible for appointment guidelines for Crown agency Boards and implementing the *Best Practice Guidelines, Governance and Disclosure Guidelines for Governing Boards* (the latter in conjunction with Crown Agencies Resource Office)

4

Establishing a Crown Agency

Establishing a new Crown agency should only be undertaken where there is a compelling public policy objective or business rationale. Because Crown agencies can significantly affect government's strategic priorities and Fiscal Plan, they should only be created where appropriate financial controls, governance and managing structures can be put in place.

Key Steps in Developing the Submission

1. Assess the Rationale for Government Involvement and Need for a Crown Agency

A Minister Responsible will sponsor a Cabinet and/or Treasury Board submission requesting approval to establish a new Crown agency. The Ministry Responsible has primary responsibility for preparing the submission, and if approved, implementing the Crown agency. Throughout this process ministry staff must ensure adequate communications are maintained with any other affected ministry departments and central agencies of government. The submission must clearly demonstrate the need for direct government involvement or intervention by the proposed Crown agency, and how specifically the functions of the Crown agency will align with government's strategic priorities and policy objectives. There are resources and experienced central agency personnel available to assist in preparing the Cabinet and/or Treasury Board submission and with the implementation process to establish a new Crown agency. At a minimum, the submission should include:

- A description of the good(s) or service(s) to be provided by the Crown agency; and
- An explanation of why a Crown agency is the optimal organizational structure to deliver the goods or services.

Government involvement or intervention may be justified based on the need for:

- Ongoing government direction relating to the policies or mandate of the Crown agency;
- Government majority control (e.g., appointment of Board members, access to assets);
- Decision-making with some independence from the Minister Responsible;

- Business and other governance expertise from a private sector Board of directors;
- Delivery of goods and services that are outside the scope of ministry activities and not appropriate for private or volunteer-sector delivery (due to market failure or lack of capacity, respectively);
- More operational flexibility than is available in a ministry delivery structure; and/or
- Goods or services that cannot be delivered by an existing Crown agency.

2. Crown Agency Classification

The appropriate Crown agency classification is tied to the functions the corporation will perform and the level of government control. Commercial Crown Corporations are separate legal entities that deliver goods and services on a commercial or for-profit basis and have the flexibility to operate in a commercially competitive environment. Service Delivery Crown Corporations are also separate legal entities, but are usually government funded and deliver goods and services based on government policies.

Ministries should seek advice from the Crown Agencies Resource Office and other central agencies whenever a new organization/entity is being considered to ensure a Crown corporation is not inadvertently being created when another classification of Crown agency (such as an advisory body) or an independent organization is intended.

3. Identify the Type of Legislative or Constituting Instrument

Specific enabling legislation is the preferred constituting instrument for new Crown corporations. This provides the best opportunity to match delegated powers and statutory decision-making authority with the Crown agency's mandate and is the best method for ensuring transparent and defined planning and reporting requirements are met. Exceptions to this practice are Service Delivery Crown Corporations established to deliver fixed-term capital projects which are typically constituted using the *Business Corporations Act*. These corporations are suited to the private sector corporate provisions of the Act. Where the *Business Corporation Act* is used to create a Crown Corporation, consideration should be given to restricting the corporation's scope of business and/or powers under its Articles of Incorporation to those that are required for its intended purpose. Also, provisions specific to Crown Corporations need to be included in the Articles of Incorporation. Advice should be sought from the Crown Agencies Resource Office before the Articles are completed. Establishing a Crown Corporation under the *Society Act* is not recommended, even if the proposed corporation has functions or objectives consistent with those of a society. Such a corporation should be established by specific enabling statute to allow the delegation of powers (and decision-making authority) that is appropriate to its function, and that clearly establishes the corporation's purpose, bylaws, members, financial arrangements and administrative requirements.

4. Determine Legislative Requirements

Early consideration must be given to the legislative provisions required to ensure the proposed Crown agency has the specific powers and flexibilities needed to deliver its mandate; and to ensure the Crown agency is subject to appropriate governance, disclosure and accountability provisions and legislation. See *Appendix 1 – Legislative Checklist for Commercial and Service Delivery Crown Corporations* to assist with assessing legislative requirements. The Crown Agencies Resource Office, Ministry of Attorney General and the Office of the Comptroller General should be consulted in this process.

5. Determine Funding Mechanism

The funding mechanism for a proposed Crown agency must be defined in the Cabinet (and/or Treasury Board) submission, and any funding from government or the proposed transfer of assets and liabilities required to establish or operate the corporation must be clearly identified. Any impact on government's Fiscal Plan must also be determined. Funding for a new corporation should be identified within existing budget targets and/or from non-government funding sources unless Cabinet and Treasury Board direction and approval has otherwise been provided.

6. Develop a Terms of Reference for Proposed Crown Agency

The terms of reference for the creation of a Crown agency must be provided in the Cabinet submission and should include the following components:

- Mandate and key lines of business/activity – define the mandate, functions and scope of the proposed Crown agency including the nature of its operations, scope of influence, its key stakeholders and/or target clients;
- High level performance objectives – state the objectives that will be achieved through creating a new Crown agency (e.g., what problem will it solve, what value will it offer government and the public);
- Proposed outcomes and performance targets – define the benefits that will result from creating the Crown agency and how success in achieving its mandate will be measured;
- Structure – state the type of Crown agency, its legislation or constituting instrument and the basic structure of the corporation (e.g., the proposed size and location, composition of and skills required for Board members, labour relations and human resource environment, relationship with other public bodies and regulatory regime, if any);
- Critical milestones and undertakings – outline any critical issues that must be resolved related to functions to be undertaken by the proposed corporation. These will be issues specific to each corporation, including:

- Preparation of a detailed Request for Legislation (including target legislative session);
 - Determining the financial and accounting policies to be followed, internal audit structure and plan and selection of an external auditor (typically the Auditor General for first three years of operation); and
 - Assessing the requirement for government financial instruments.
- Proposed human resources and labour relations strategy; and
 - Implementation plan.

If approval is granted to establish a new Crown agency, Cabinet will decide which Minister will be responsible for the Crown agency.

Approval Process for Creating Subsidiaries

Crown agencies must consult with their Minister Responsible before creating a subsidiary. Crown agencies may create subsidiaries in the following circumstances:

- Ministry of Attorney General advises that the Crown agency has legal authority to create a subsidiary; and
- Minister Responsible agrees the proposed subsidiary mandate is consistent with the shareholder's mandate direction to the Crown agency.

In the absence of these circumstances, the Minister Responsible will be required to develop a Cabinet and/or Treasury Board submission to gain approval to establish the subsidiary, or gain approval to expand the Crown agency mandate. As a matter of policy, Crown agencies are required to obtain government's consent before creating a subsidiary that is outside of their approved mandate.

Crown agencies must ensure that their service plans and annual reports include mandate and financial information regarding subsidiaries.

Steps to Establish a Crown Corporation

The steps required to move from Cabinet approval of the Crown agency to its creation include:

1. Preparation of Enabling Legislation or Constituting Instrument

The process of obtaining approval for the required legislation is subject to government policy requirements for a Request for Legislation, requirements for incorporation under the *Business Corporations Act*, or other requirements in existing enabling legislation (as the case may be).

Appendix 1 – Legislative Checklist for Commercial and Service Delivery Crown Corporations provides a general guide to the preparation of legislation for Commercial and Service Delivery Crown Corporations, and lists the provisions that should be included in enabling legislation or addressed through other incorporating documents. Each Crown Corporation will have somewhat unique circumstances that may need to be addressed with provisions not contemplated in this list. The advice of the Crown Agencies Resource Office should be sought early in the process to ensure the requirements of the *Crown Agency Accountability System* are being met.

Notwithstanding the provisions of the classification under which a Crown Corporation is to be established, a Crown Corporation is generally subject to the requirements included in the following legislation: *Auditor General Act, Budget Transparency and Accountability Act, Balanced Budget and Ministerial Accountability Act, Document Disposal Act, Financial Administration Act, Financial Disclosure Act, Financial Information Act, Freedom of Information and Protection of Privacy Act, Multiculturalism Act, Ombudsman Act, Public Sector Employers Act and Workers Compensation Act.*

Depending on legislation that may be created to establish a Crown Corporation, the Crown Corporation may also be subject to additional legislative requirements. Certain Crown agencies may be subject to the *Public Service Act, Public Service Labour Relations Act, Public Service Pension Plans Act*, and/or the *Benefits Act*. Crown agencies are also subject to statutes of general application (e.g., *Waste Management Act, Environmental Assessment Act*). Legislation may also specify directive powers for the Lieutenant Governor in Council or the Minister Responsible, or the application of certain policies (e.g., procurement, Climate Action, Treasury Board directives and appointment guidelines).

In addition, the Shareholder's Letter of Expectations will identify general policies that apply to Crown agencies and specific policy direction from government. The Shareholder's Letter of Expectations must not contradict enabling legislation.

2. Selection, Appointment and Orientation of Board Members

Crown agencies will need to ensure that their Boards of Directors are properly constituted, and that the guidelines for Board appointments are followed. The Board Resourcing and Development Office works with ministry officials to develop director profiles and support the recruitment process. Each Ministry Responsible manages the appointment process for Crown agencies within its domain. The Minister Responsible formally appoints (in the case of appointments by Minister's Order), or recommends candidates for Cabinet approval (in the case of appointments by the Lieutenant Governor in Council).

The level of remuneration for Board members is determined pursuant to Treasury Board Directives as administered by the Appointee Remuneration Committee.

Plans for the recruitment and appointment of Board members need to be developed early in the process and may occur concurrently with the preparation of the enabling legislation. Crown agency Boards do not include elected provincial officials and should not – except in rare circumstances – include the Crown agency's Chief Executive Officer or other officials/staff, or government staff.

3. Implementation of Board Structure

Ministry Responsible staff and the newly established Crown agency Board should work with the Board Resourcing and Development Office and Crown Agencies Resource Office to ensure that their corporate governance structure is consistent with the *Governance and Disclosure Guidelines for Governing Boards of British Columbia Public Sector Organizations* and the *Crown Agency Accountability System*. This means that the Boards will need to develop some or all of the following:

- Governance principles;
- Policies;
- Procedures;
- Internal financial control and reporting regime;
- Human resources and labour relations strategy;
- Bylaws;
- Key roles and responsibilities;
- Board committees (audit/risk management, human resource, governance, etc.); and
- Standards of ethical conduct.

4. Appointment of Crown Agency Staff / Creation of Human Resources and Labour Relations Regime

With the exception of a very small number of (statutory) Crown agencies, the Board of Directors will appoint its Chief Executive Officer and other senior executives. When making appointments, Boards must work with the Public Sector Employers' Council Secretariat to ensure that executive appointments and remuneration are within government-approved compensation guidelines. The Public Sector Employers' Council Secretariat can also advise on labour relations matters and must be consulted in labour relations negotiations. A Crown agency must establish clear human resources and labour relations policies and procedures. Government may decide to make the Crown agency subject to the *Public Service Act*.

5. Shareholder's Letter of Expectations

Government and most Crown Corporations enter into Shareholder's Letters of Expectations which are reviewed annually and amended as required.

Roles and Responsibilities

Crown Agencies Resource Office

- Provides guidelines and advice to Crown agencies, their Boards, and Ministers Responsible, and must be consulted early in the process.
- Provides advice and guidance during the creation of a Crown agency, including the development of the Cabinet and/or Treasury Board submission and the drafting of the enabling legislation or articles of incorporation.
- Provides advice to Cabinet and/or Treasury Board on the proposed establishment of new Crown agencies.

Treasury Board Staff

- Reviews submissions for new Crown agencies and should be consulted early in the process.
- Consulted on any new or proposed Crown agency fees.

Ministry Responsible Staff

- Consults with Crown Agencies Resource Office, prior to establishing a new organization.
- Primary responsibility for preparing the Cabinet and/or Treasury Board submission and leads the process for creating the approved Crown agency.

Ministry of the Attorney General – Legal Counsel

- Provides legal advice on Crown agency establishment, identifies legislative implications related to intergovernmental agreements or obligations, contractual obligations and enabling legislation.

Ministry of Attorney General – Legislative Counsel

- Drafts legislation on direction from sponsoring ministry.

Office of the Comptroller General

- Should be consulted as required throughout the process with regard to accounting treatment. Advises government on requirements to ensure Crown agencies are in the government reporting entity.

Provincial Treasury – Debt Management Branch

- Should be consulted as required throughout the process with regard to borrowing, debt management and investment powers.

Provincial Treasury – Risk Management Branch

- Should be consulted as required throughout the process regarding risk and impact on government and indemnities.
- Administers directors/officers indemnification program.

Ministry of Finance – Tax Policy Branch

- Should be consulted as required throughout the process with regard to the tax status of the Crown agency.

Public Sector Employers' Council Secretariat or the Public Service Agency

- Should be consulted as required throughout the process regarding non-union (including executive) compensation planning, human resources regimes and labour relations mandates, and assignment to the appropriate employers' association for the Crown agency.

Board Resourcing and Development Office

- Should be consulted as required throughout the process with regard to Board of Director appointments, Board structure and governance requirements (the latter in conjunction with the Crown Agencies Resource Office).

Appointee Remuneration Committee

- Administers Treasury Board directives on Board remuneration levels for Crown agency Board members.
- Chaired by the Deputy Minister Responsible for the Public Sector Employers' Council Secretariat or his/her designate.
- Establishes remuneration levels for Board members of new Crown agencies.

5

Constituting a Crown Agency Board of Directors

The Board Resourcing and Development Office (BRDO) established guidelines and monitors the process for Board of Director appointments and governance. BRDO should be consulted during the start-up of a Crown agency, and in recommending initial candidates and subsequent Board appointments. Government is committed to ensuring best practices in public sector Board governance and public accountability.

Board Appointments

Cabinet and/or Ministers Responsible appoint the members of Crown agency Boards (except School Boards, which are locally elected). A competency matrix (skills and experience and personal attributes) is used to select Board members. Board members are required to sign a Candidate Profile and Declaration which includes: information about the candidate's background; disclosure of any potential conflicts of interest; a declaration acknowledging general responsibilities to the Crown agency; questions about personal integrity and public accountability; and a list of personal references. Government does not appoint elected provincial officials to Crown agency Boards. Government does not appoint the Crown agency's Chief Executive Officer or other officers/staff of the Crown agency to the Board. In very rare instances a Deputy Minister of other government official may also be appointed to a Board based on their skills and experience, although this is generally not considered to be good practice. The Chair of a Crown agency Board is permitted to appoint members of his or her Board to subsidiary Boards. Any other appointments to the subsidiary are subject to the Board Resourcing and Development Office process.

Governing Principles of the Appointment Process

The Board Resourcing and Development Office established the following principles to guide the appointment process:

Merit-Based: Appointments are governed by the overriding principle of selection based on merit – an objective assessment of the fit between the skills and qualifications of the prospective candidate and the needs of the Crown agency.

Transparent: The appointment process guidelines are clear and understandable and available to the public.

Consistent: The appointment process is applied consistently to all appointments to Crown agencies.

Probity: Crown agency Board members must be committed to the principles and values of public service and perform their duties with integrity.

Proportionate: The appointments process is subject to the principle of proportionality, that is, the process is to be appropriate for the nature of the post and its responsibilities.

Good Practices Concerning Board Composition and Succession

- The Board is made up of individuals who, collectively, have the required competencies and personal attributes to carry out their responsibilities.
- Board members are independent from management and have no material interest in the organization.
- The Board has a competency matrix that is updated annually and when vacancies arise. The competency matrix is used to identify competency “gaps” on the Board and to assist in the search for new candidates.
- The Board has a Governance Committee that develops director selection criteria.
- Board members are selected and appointed in compliance with the Province of BC Board Appointment Process.
- The Board has a succession plan for the orderly turnover of directors.
- The Board publishes the name, appointment term and a comprehensive biography of each director on the organization’s web site.
- Unless otherwise required by legislation or directed by Cabinet, the appropriate Board size is 9 to 11 members, including the Chair.

Key Steps in the Appointment Process

A successful recruitment initiative requires excellent cooperation and communication among the Crown agency, the Minister Responsible, the Ministry Responsible, the Board Resourcing and Development Office, applicants, successful candidates and, where appropriate, interested stakeholders. The major steps to be followed in filling a vacancy include:

- ✓ Identify the need for an appointment;
- ✓ Confirm Board composition criteria and vacancy skills profile;

- ✓ Prepare a Vacancy Notice or Notice of Position;
- ✓ Confirm recruitment and evaluation process;
- ✓ Submit Request for Appointment;
- ✓ Identify candidates;
- ✓ Assess candidates;
- ✓ Complete a due diligence process on short listed candidates;
- ✓ Consult on and review final selection;
- ✓ Complete process to formalize appointment;
- ✓ Finalize communications; and
- ✓ Notify the public.

Board remuneration must be consistent with Treasury Board's directives. The Minister Responsible must ensure compliance with the Treasury Board directive.

Board Governance Guidelines

The Board Resourcing and Development Office has developed a number of resources to support good governance for Crown agency Boards, including the publication of the Best Practice Guidelines related to Board governance and disclosure.

Crown agencies are normally subject to government's disclosure legislation (including the *Auditor General Act*, *Budget Transparency and Accountability Act*, *Financial Administration Act*, *Financial Disclosure Act*, *Financial Information Act*, *Freedom of Information and Protection of Privacy Act*, *Multiculturalism Act*, *Ombudsman Act* and *Public Sector Employers Act*). Crown agencies have a general responsibility to provide government staff, stakeholders and the public with access to information about their operation. To ensure that public sector transparency and accountability are maintained, Crown agencies must establish sound communications strategies to ensure that information provided is accurate, appropriate and timely.

Crown agencies should make general information about the organization readily available, including descriptions of mandate and activities, to promote open communication between the Crown agency and interested parties. Crown agencies should post their Shareholder's Letters of Expectations, service plans, annual service plan reports and annual statements of employee remuneration and supplier expenditures under the *Financial Information Act* on their websites.

The Board Resourcing and Development Office and the Crown Agencies Resource Office provide support to Crown agencies in adopting these guidelines.

Roles and Responsibilities

Board Resourcing and Development Office

- Sets the Crown agency appointment policy.
- Works with Ministry Responsible staff to develop skills and experience profiles for appointments.
- Seeks out and screens potential candidates.
- Provides advice and recommendations to Cabinet or the Minister Responsible on Board appointments for Crown agencies.
- Jointly with the Crown Agencies Resource Office, supports Board orientation and training.
- Jointly with the Crown Agencies Resource Office, is responsible for good practice guidelines for corporate governance.

Ministry Responsible Staff

- In consultation with the Board Resourcing and Development Office, manages the appointment process for the Crown agency within its domain.

Appointee Remuneration Committee

- Administers Treasury Board directives on Board remuneration.

6

Crown Agency Labour Relations and Human Resources

Crown agencies subject to the *Public Sector Employers Act* are required to:

- Collectively bargain with unionized staff (whether directly or through Public Sector Employers' Associations), consistent with strategic human resource and labour relations directions set by the Public Sector Employers' Council (PSEC);
- Compensate non-union staff in accordance with applicable compensation plans approved by the Minister Responsible for the Act;
- Publically disclose the terms and conditions of employment relating to compensation for senior non-union staff, and report any changes in these terms and conditions to the Chief Executive Officer of the PSEC Secretariat; and
- When dismissing non-union staff, comply with the *Employment Termination Standards Regulation* established under the *Public Sector Employers Act*.

Some Crown agencies may be subject to the *Public Service Act* as well as the *Public Sector Employers Act*. The *Public Service Act* specifies terms and conditions of employment for union and non-union employees, including managers and executives. Employment Termination Standards established under the *Public Sector Employers Act* apply to non-union staff of Crown agencies subject to that Act.

Public Sector Employers Act

Most Crown agencies are subject to the provisions of the *Public Sector Employers Act*, which was created to improve communications and the coordination of human resource and labour relations policies and practices among public sector employers and representatives of public sector employees. The *Public Sector Employers Act* continues the 'Public Sector Employers' Council' and provides for the establishment of 'Public Sector Employers' Associations'. The Public Sector Employers' Council sets and coordinates strategic directions in human resource management and labour relations policies and practices; advises government on human resource issues in the public sector; provides a forum to enable public sector employers; and consults with representatives of public sector employees on policy issues that directly affect the employees.

The *Public Sector Employers Act* provides that the Minister Responsible for the Act is both a member and the Chair of PSEC and authorizes government to appoint up to seven additional ministers or deputy ministers (as of December 2008, seven ministers are members of PSEC in addition to the Minister Responsible for the Act). Other PSEC members include the Deputy Minister of the BC Public Service Agency and a representative from each Public Sector Employers' Association. The Public Sector Employers' Council sets mandates for union and non-union compensation in the public sector.

The Public Sector Employers' Council may employ a Chief Executive Officer and other officers and employees (namely the PSEC Secretariat). The PSEC Secretariat, in turn, supports PSEC and the Minister Responsible for the Act in fulfilling their responsibilities under the *Public Sector Employers Act*. The PSEC Secretariat's functions include managing the development and implementation of the labour relations policies and non-union compensation practices of Crown agencies. The PSEC Secretariat also administers the province's collective bargaining and the non-union compensation mandates. These mandates must be approved by PSEC, and govern what Crown agencies may agree to in collective bargaining and what policies they may implement regarding non-union compensation.

Public Sector Employers' Associations are responsible for the coordination of non-union employee compensation, benefit administration, human resource practices and collective bargaining within their sector (e.g., Health, Community Social Service, Crown Corporations and Universities). Public sector employers are assigned to a sector under the *Public Sector Employers Act*. Most Crown corporations (Commercial and Service Delivery) are required to belong to the Crown Corporation Employers Association. However, bargaining for most Crown corporations is undertaken on an individual rather than sectoral basis.

Public Service Act

The *Public Service Act* applies to ministries and those government organizations that are specified by Order-In-Council or statute. When the Act applies, the Public Service Agency negotiates and administers collective agreements on behalf of a Crown agency's unionized staff. For a Crown agency's non-union staff, the Public Service Agency's excluded compensation policies and procedures, which incorporate all the provisions of the *Public Sector Employers Act*, apply. The Public Service Agency (in conjunction with the PSEC Secretariat) administers these provisions on behalf of the Crown agency.

Labour Relations and Human Resources

Establishing of a Crown Agency

Upon the creation of a Crown agency, its Board is generally responsible for hiring the Chief Executive Officer and for setting terms and conditions of employment for the position, within a compensation plan approved by the Minister Responsible for the *Public Sector Employers Act*. Boards work closely with the PSEC

Secretariat and/or the appropriate Employers' Association to develop and gain approval of an appropriate compensation plan prior to commencing a Chief Executive Officer search.

The Chief Executive Officer, in turn, is normally responsible for hiring and setting the terms and conditions of employment for the rest of the Crown agency's staff, under the supervision of the Crown agency Board. The Chief Executive Officer must ensure that the collective agreement governing the terms and conditions of employment of unionized staff is negotiated and concluded in accordance with an approved mandate from PSEC. The Chief Executive Officer must also ensure that terms and conditions of employment for non-union staff are in accordance with any applicable compensation plan approved by the Minister Responsible for the *Public Sector Employers Act*.

When a Crown agency is created, government has the option of making it subject to the *Public Service Act*. Public Service Agency staff should be consulted early on in the decision-making process leading to the creation of the Crown agency to address the question of whether the agency should be subject to the *Public Service Act*.

Ongoing Operation

The Chief Executive Officer of a Crown agency is responsible for the ongoing management of terms and conditions of employment for Crown agency staff (both union and non-union), while the Board of directors is ultimately responsible for ensuring that these terms and conditions comply with the *Public Sector Employers Act* and the *Public Service Act* (if applicable).

Unionized Staff

Terms and conditions of employment for unionized staff are governed by collective agreements negotiated by the Crown agency (or the appropriate Employers' Association) and the union(s) certified to represent its employees. The process to ratify the collective agreement is determined by the constitution and by-laws of the Crown agency or appropriate Employers' Association. Ratification of the agreement by an Employers' Association or Crown agency Board of directors binds the Crown agency to the collective agreement.

Collective agreements must be consistent with the collective bargaining mandate approved by PSEC and provided to the Crown agency or the Employers' Association by the PSEC Secretariat. If the Crown agency is responsible for bargaining its own collective agreement, Crown agency staff work closely with the PSEC Secretariat prior to bargaining to develop a mandate that is appropriate for the Crown agency and consistent with government's broad public policy goals. The Board of the Crown agency must ensure that a tentative agreement has been approved by the Minister Responsible for the *Public Sector Employers Act* before ratification of the collective agreement.

When the *Public Service Act* applies, the Public Service Agency negotiates and administers collective agreements on behalf of a Crown agency's unionized staff.

Non-union Staff (e.g., managers, executives and senior executives)

All terms and conditions of employment for non-union employees (including executives) must be in accordance with any applicable compensation plans approved by the Minister Responsible for the *Public Sector Employers Act*. Compensation plans cover all terms and conditions of employment relating to compensation, including wage rates, benefit levels, incentive/bonus payments and perks. The *Public Sector Employers Act* also contains specific limitations regarding vacation, sick leave, and severance. The Chief Executive Officer of the Crown agency is responsible for ensuring these limitations are incorporated into a Crown agency's non-union compensation plan.

The Chief Executive Officer of the Crown agency, and/or his or her delegate, works with the PSEC Secretariat or with the appropriate Employers' Association to seek approvals from the Minister Responsible for the *Public Sector Employers Act* to amend the compensation plan when appropriate and to ensure the compensation plan remains consistent with public sector policies.

Chief Executive Officer

The Board of a Crown agency is generally responsible for managing terms and conditions of employment of the Chief Executive Officer. The terms and conditions of the Chief Executive Officer's compensation package must be consistent with the approved compensation plan, but a new or amended plan can be approved by the Minister Responsible for the *Public Sector Employers Act*.

Severance pay for almost all Crown agency Chief Executive Officers is limited by the *Public Sector Employers Act*, and the Crown agency Board is responsible for ensuring that any compensation paid to a departing Chief Executive Officer is consistent with these limitations. Again, Boards work closely with the PSEC Secretariat or the appropriate Employers' Association before a termination in order to ensure that any severance package is appropriate and in accordance with the *Public Sector Employers Act*, if applicable.

Consistent with the "No Surprises" principle, the Board must alert the PSEC Secretariat (who in turn will brief the Minister Responsible for the *Public Sector Employers Act*) in advance of any high profile termination, consistent with the "No Surprises" principle.

Directions from the Minister Responsible for the *Public Sector Employers Act*

The Minister Responsible for the *Public Sector Employers Act* may direct that a Crown agency or the relevant Employers' Association prepare a specific compensation plan for some or all non-union staff at the agency for the Minister's review. Upon the Minister issuing such a direction, the Crown agency Board or appropriate Employers' Association must ensure that, subject to certain exceptions in the *Public Sector Employers Act*, no increase in compensation is provided to employees whose positions are subject to the direction until a plan for those positions has been approved by the Minister Responsible for the *Public Sector Employers Act*. The Crown agency Board must also ensure that compensation plans approved by the Minister are implemented as employment compensation standards for positions in the organization.

Dissolution of Crown Agencies

Significant labour relations and human resources issues typically arise upon Crown agency dissolution. In particular, there will likely be severance obligations to union and non-union staff. If the Crown agency's function is being absorbed by another Crown agency or by a ministry, unionized staff may have preferential hiring rights.

Crown agency Boards, Crown agency Chief Executive Officers, Ministry Responsible staff, the PSEC Secretariat or the appropriate Employers' Association and the Public Service Agency (if applicable) work closely together to ensure that all relevant legal obligations are met, and that the terms and conditions of employment of all staff are discharged appropriately.

Disclosures and Reporting

Crown agencies are subject to the basic salary disclosure provisions of the *Financial Information Act* for employees earning \$75,000 or more per year. In addition, enhanced disclosure requirements are applied to the Chief Executive Officer and the next four highest paid/ranking executives in a Crown agency, where these positions hold a base salary of \$125,000 or more per year. In particular, detailed explanations of all the elements that make up the compensation package for each of the top five executives must be proactively disclosed on the organization's website. Finally, for any employee earning more than \$125,000 per year, Crown agencies are required to:

- Report to the Chief Executive Officer of the PSEC Secretariat all the terms and conditions of employment relating to compensation, including a copy of the contract of employment within 15 days after contract is entered into;
- Report to the Chief Executive Officer of the PSEC Secretariat any change to the employee's terms and conditions of employment relating to compensation within 15 days (including salary increase, bonus payouts, and severance payments); and

- Make available for public inspection a copy of the contract of employment, together with any report filed with the Chief Executive Officer of the PSEC Secretariat pertaining to that contract or related to compensation of the employee.

Most Crown agencies are subject to the *Financial Information Act* requirements regarding disclosure of supplier payments in addition to employee remuneration.

Roles and Responsibilities

Minister Responsible for the Public Sector Employers Act

- Chair of the Executive Council charged with administering the *Public Sector Employers Act*.
- Powers and duties range from setting overall funding levels for collective bargaining across the entire public sector, to approving compensation plans for non-union employees in individual Crown agencies.

Public Sector Employers' Council Secretariat

- Administers and manages the development and implementation of labour relations policies and practices in the public sector.
- Provides proactive and timely information, communications, and labour relations expertise and solutions to government, employers, unions, and other groups.

Crown Agency Board

- Generally responsible for ensuring the organization is managed the parameters of the *Public Sector Employers Act* and other applicable laws, including:
 - Hiring, terminating and setting the terms and conditions of employment for the Chief Executive Officer in accordance with a compensation plan approved by the Minister Responsible for the Act; and
 - Fulfilling responsibilities associated with an assigned Employers' Association, including ensuring tentative collective agreements have been approved by the Minister Responsible for the Act.

Public Sector Employers' Associations

- Responsible for the coordination of non-union employee compensation, benefit administration, human resource practices, collective bargaining and fostering consultation between an Employers' Association and representatives of employees. In the case of Crown corporations, the Crown Corporations Employers' Association is generally not involved in collective bargaining.

Public Service Agency

- Where the Crown agency is subject to the *Public Service Act*, the Public Service Agency develops and administers all human resources and labour relations-related policies as well as negotiates and administers collective agreements on behalf of the Crown agency's unionized staff.

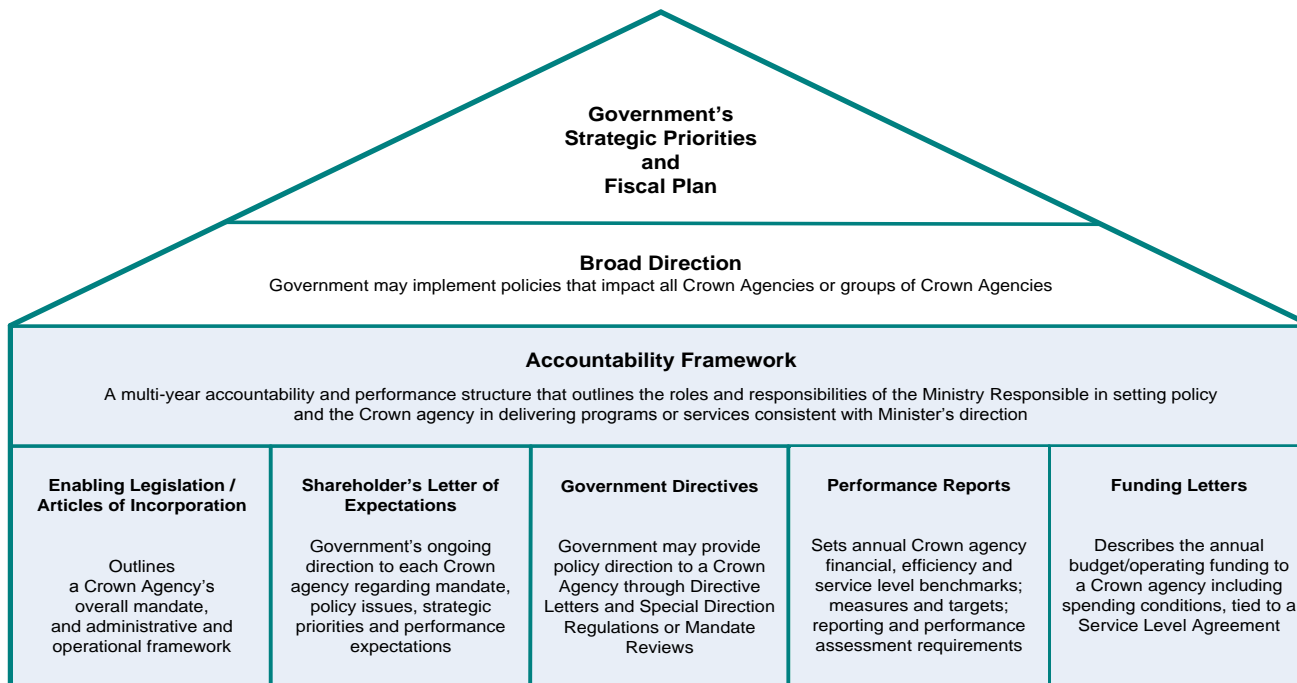
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Crown Agency Mandate and Policy Direction

Throughout the annual business cycle, government provides mandate and policy direction to a Crown agency to ensure its operation and performance are consistent with strategic priorities and the Fiscal Plan

Overview

Generally it is the responsibility of government, the Minister Responsible and the Ministry Responsible to set broad policy direction within which the Crown agency operates. The following illustration shows the various ways in which government provides direction to Crown agencies.



Broad Direction

Government will provide broad policy direction to the Crown agency sector, or a component of the sector. Treasury Board may also issue specific directions to Ministers Responsible based on its decisions involving Crown agencies. The *Crown Agency Accountability System* is itself an example of sector-wide direction, other examples include:

- Climate Action – pursuing actions and meeting obligations of the *Greenhouse Gas Reduction Targets Act* for public sector organizations, the BC Energy Plan, the Western Climate Initiative, and the Framework for Greenhouse Gas Measurement and Reporting for Crown corporations;
- Procurement standards – based on the principles of non-discrimination, transparency, openness and ease of access to information – including the Agreement on Internal Trade and the Trade, Investment and Labour Mobility Agreement;
- Capital Asset Management Framework – Commercial and Service Delivery Crown corporations are subject to this framework;
- Executive compensation and labour relations guidelines and requirements; and
- Treasury Board Directives on Board remuneration.

Accountability Framework

Minister Responsible may establish a multi-year accountability and performance framework in consultation with a Crown agency that:

- Outlines the roles and responsibilities of the Minister, Deputy Minister and Ministry Responsible staff, and the Crown agency Chair/Board, Chief Executive Officer and Crown agency staff;
- Establishes an accountability oversight infrastructure in the Ministry Responsible, consistent with accountability requirements; and
- Establishes an accountability infrastructure in the Crown agency to fulfill accountability requirements.

Crown Agency Legislation and Articles of Incorporation

The overall mandate and administrative framework for a Crown agency will be outlined in its enabling legislation and/or Articles of Incorporation. For Crown Corporations incorporated under the *Business Corporations Act* (BCA), Articles of Incorporation are developed by the Ministry Responsible in consultation with the Crown Agencies Resource Office, the Office of the Comptroller General and the Ministry of Attorney General. For non-BCA Crown Corporations, specific enabling legislation to align delegated powers and authorities to the Crown agency's mandate is developed by the Ministry Responsible in consultation with the Crown Agencies Resource Office, the Office of the Comptroller General, Treasury Board Staff, Ministry of Attorney General, and Cabinet Operations, for

approval by the Legislation Review Committee of Cabinet. The Ministry Responsible develops an Order-In-Council to add the Crown agency to government legislation as required (e.g., the *Financial Administration Act*, the *Financial Information Act*, the *Budget Transparency and Accountability Act*, the *Freedom of Information and Protection of Privacy Act*, etc.). Once established, the Crown agency's Board ensures processes are in place to monitor adherence to legislation and policy on an on-going basis.

Shareholder's Letter of Expectations

Purpose and Content

The Shareholder's Letter of Expectations provides a formal means of communicating direction and priorities to Crown agency Boards. The Shareholder's Letter of Expectations are reviewed and updated annually by Ministry Responsible staff to ensure evolving government priorities and mandate direction is reflected appropriately.

Key Features of the Shareholder's Letter of Expectations

- ✓ Public statement of government's mandate and policy direction to each Crown agency.
- ✓ Reviewed and approved annually by Cabinet, prior to the preparation of a Crown agency's service plan.
- ✓ Lays out key actions required and high-level performance expectations of a Crown agency and government.
- ✓ Key accountability and governance instrument between the Shareholder and a Crown agency.
- ✓ Crown Agencies Resource Office develops the Shareholder's Letter of Expectations template and coordinates the process.

Procedures

The Minister Responsible, in consultation with the Crown agency, initiates a Shareholder's Letter of Expectations by reviewing the existing Letter and preparing proposed revisions, including updated performance expectations and changes to the template provided by the Crown Agencies Resource Office (i.e., language/direction to be included in the letters for all Crown agencies). The Minister Responsible then submits the proposed Shareholder's Letter of Expectations to the relevant Cabinet Committee for review and recommendation to Cabinet for approval. Once approved by Cabinet, the Letter is signed by both the Minister Responsible and Chair of the Crown agency. The Minister is responsible for supporting the Crown agency in achieving the requirements and expectations set out in the approved Letter. The Crown agency Board is responsible for ensuring that government's direction and performance expectations are incorporated into the Crown agency's service plan. Shareholder's Letters of Expectations are public documents, and are posted on both government and the relevant Crown agency web sites.

Service Level Agreement

A Service Level Agreement is a specific contract between a Crown agency and the Ministry Responsible. The Ministry Responsible may develop an annual Service Level Agreement aligned with a Funding Letter, establishing program administration and delivery approach, service levels, performance expectations and reporting requirements, in collaboration with a Crown agency. Service Level Agreements should be referenced in the Shareholder's Letter of Expectations.

Directive Letters and Special Direction Regulations

Government may determine during the course of a planning cycle that one or more Crown agencies are to participate in a new initiative (i.e. one that is not identified in the current Shareholder's Letters of Expectations). In these cases, Cabinet will provide direction to the Minister Responsible, who will in turn issue directives (per the Crown agency's constituting instrument e.g., legislation, regulation) regarding how the Crown agency will fulfill its mandate.

Cabinet may also issue special direction regulations to a Crown agency and or to its regulator. This approach may be used to provide specific direction to one or several Crown agencies, or to one or several categories of Crown agencies.

The Minister Responsible may issue regulations that broaden or narrow a Crown agency's mandate. The Minister Responsible may also set provincial standards by regulation for delivery of Crown agency's programs or services.

Mandate Reviews

Government may undertake periodic mandate reviews of one or more Crown agencies to ensure alignment with government's strategic priorities.

Information Management / Information Technology (IM/IT)

The government's Chief Information Officer (CIO) sets IM/IT standards for government, and works with Ministries Responsible and Crown agency CIOs to ensure compliance under an Information Sharing Agreement, and alignment with the Ministry of Labour and Citizen's Services IM/IT governance practices.

The Ministry Responsible has overall responsibility for IM/IT issues and approves the Crown agency's Information Resource Management Plan (IRMP).

The Crown agency CIO makes operational decisions related to IM/IT within approved IRMP; projects outside IRMP require Ministry Responsible / government CIO approvals.

Roles and Responsibilities

Crown Agencies Resource Office

- Advises government on the *Crown Agency Accountability System*.
- Supports Ministries Responsible and Crown agencies on policy direction processes (e.g., Shareholder's Letters of Expectations, service plans, annual service plan reports and governance reviews).

Treasury Board Staff

- Reviews and advises Treasury Board on financial issues relating to Commercial and Service Delivery Crown Corporations.

Ministry Responsible Staff

- Advises the Minister Responsible on Shareholder's Letter of Expectations.
- Provides advice to the Minister on Directive Letters and Service Level Agreements, as applicable.

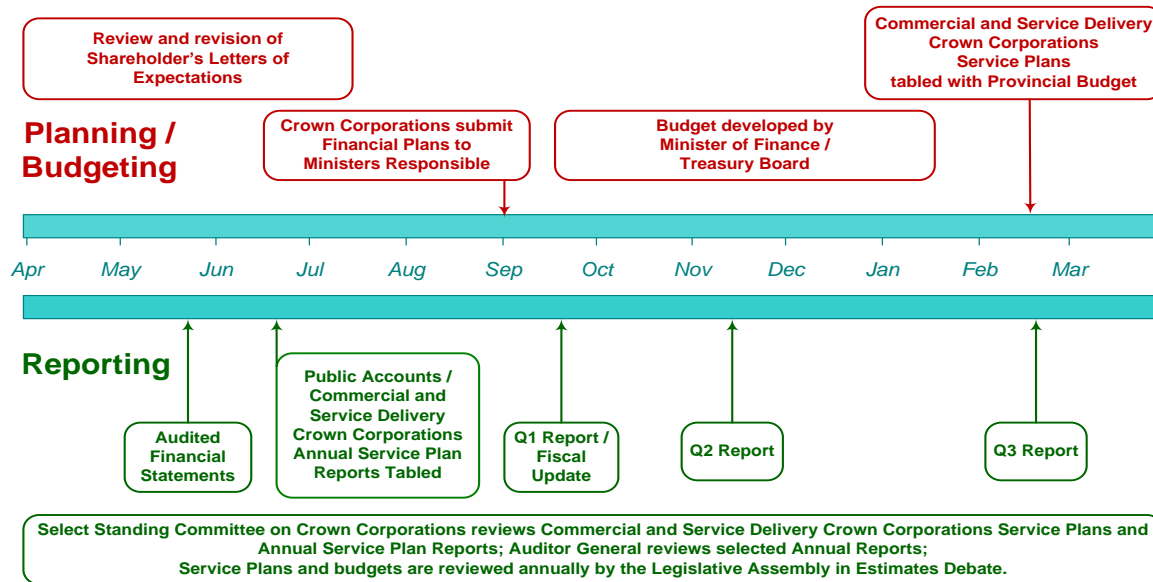
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Crown Agency Planning Requirements

Crown agencies are part of government's strategic priorities and fiscal planning cycle. The *Budget Transparency and Accountability Act* requires that Ministers Responsible table in the Legislative Assembly three-year service plans that outline performance objectives and targets for Commercial and Service Delivery Crown Corporations.

Annual Planning and Reporting Cycle

Defined planning and reporting processes are one of the primary mechanisms through which Crown agencies maintain their relationship with government and remain accountable for their performance to the Legislative Assembly and the public. The most significant planning and reporting requirements relate to the annual business planning cycle. During this cycle, Crown agency Boards and management develop their strategic approach to the execution of their mandate over a three-year period in accordance with government's strategic priorities and Fiscal Plan and any mandate and policy direction received.



Overview of the Annual Planning and Reporting Cycle

- Government develops its strategic priorities and Fiscal Plan that set out priorities, specific objectives and expected results, and the multi-year fiscal forecast for the government reporting entity.
- The Minister Responsible establishes a Shareholder's Letter of Expectations with Cabinet's approval that clarifies mandate and strategic direction, sets out performance expectations, defines reporting requirements, and includes other information requirements as necessary.
- Crown agencies submit financial plans to Ministers Responsible.
- The Boards of Commercial and Service Delivery Crown Corporations prepare and approve, based on Ministers Responsible review and approval, service plans for tabling in the Legislative Assembly on budget day.
- Crown agencies report to Ministers Responsible on performance, including submission of quarterly financial reports to Ministers Responsible and the Minister of Finance on year-to-date results and adjusted forecasts.
- Within three months of the end of the fiscal year, Commercial and Service Crown Corporations prepare an annual report for submission to Ministers Responsible that compares actual results with service plan targets. Minister's Responsible review draft annual reports. The Crown agency Board finalizes the annual service plan report based on the minister's review and approval.
- The Minister Responsible ensures that the annual service plan report is tabled on the same day as the Public Accounts; for Crown agencies with a December 31st year-end, an earlier tabling date is required.

Service Plans for Commercial and Service Delivery Crown Corporations

The *Budget Transparency and Accountability Act (BTAA)* provides a legislative framework for planning, reporting, and accountability. The *BTAA* establishes the requirement for three-year service plans, which are designed to ensure that government and Crown corporations clearly outline their goals and performance expectations, and to enable British Columbians to hold government and Crown corporations accountable for their decisions and actions.

A service plan is the guiding document for a Crown agency Board, which is accountable for achievement of the planned results documented in the plan. The plan should advance the public's understanding of the Crown Corporation's core business, the services provided, the actions planned and the expected results.

The Minister Responsible is required to table individual service plans for Commercial and Service Delivery Crown Corporations. Service Plan Guidelines for Crown Agencies are prepared annually by the Crown Agencies Resource Office to assist Crown corporations in developing service plans that are consistent with the *BTAA* and the *BC Reporting Principles*.

Procedures for Review and Tabling of Service Plans

The *BTAA* stipulates that Crown agency service plans must be made public by being tabled in the Legislative Assembly by the Minister Responsible annually on the date that the provincial budget and estimates (and ministry Service Plans) are tabled (the third Tuesday of every February).

Service Plan Review Process

Crown agency Boards and management evaluate their business environments and develop detailed three-year service plans that: are consistent with the government's strategic priorities (including the government's fiscal forecast); reflect direction contained in Letters of Expectations; and include financial forecasts. Boards deliver draft service plans to Ministers Responsible for review and approval.

Ministers Responsible and ministry staff will review draft service plans submitted by Crown agency Board to ensure consistency with the *BTAA*, government's strategic priorities and Fiscal Plan, and the minister's direction to the Crown agency. A service plan must be consistent with the financial plan presented by the Minister Responsible to Treasury Board, and incorporate any relevant Treasury Board decisions.

A service plan must be approved by the Crown agency's Board, and the Minister Responsible must agree to the tabling of the report. Under the *BTAA*, Minister can make a public statement of non-compliance with the *BTAA* (or seek an exemption) as an alternative to tabling a service plan on budget day if the minister is not prepared to table a service plan on that day (if, for example, the Crown agency is in start-up mode). In such a case, the service plan would be tabled at a later date in the fiscal year. In order to meet the scheduled February budget day deadline, the following is a schedule of key dates:

December	Draft Service Plans sent to Ministry Responsible staff for review, to ensure financial plan is consistent with forecast provided to Treasury Board in September, and consistent with any specific financial decisions made by Treasury Board.
January / February	Ministers Responsible review and provide comments back to the Crown agency on its draft service plan. Final service plan, incorporating minister's comments and approved by the minister and Crown agency's Board is submitted to Cabinet Operations which coordinates printing of the service plans by Queens Printer for Budget Day.
March 2, 2010	Minister of Finance, on behalf of Ministers Responsible, tables service plans in the Legislative Assembly with the Budget.
Ongoing	Review of service plans and annual service plan reports by the Legislative Assembly, its committees and by the Office of the Auditor General.

Publication and Posting

After service plans are tabled in the Legislative Assembly, they are made available to the public on the government and Crown agency websites.

Subsequent Review

Crown agency service plans may be reviewed by the Legislative Assembly in estimates debate, or with the budget of the Ministers Responsible, or by a Committee of the Legislative Assembly. If a Crown agency service plan is selected for committee review, Board members and/or executive staff of the Crown agency may be required to make a presentation at the committee meeting and to answer any questions posed by committee members.

Information Requirements and Events Calendars

An *Information Requirements and Events Calendar* is distributed to all Crown agencies. There are different versions for Commercial and Service Delivery Crown Corporations. The differences primarily relate to the budget process, and how these organizations are consolidated into government's Summary Accounts. These calendars set out the dates on which Crown agencies must submit financial information, service plans, annual service plan reports and other information to government in order to meet statutory reporting dates and other government requirements.

Roles and Responsibilities

Crown Agencies Resource Office

- Provides service plan guidelines.
- Supports Ministry Responsible staff to meet reporting requirements.

Cabinet Operations

- Reviews and provides advice on Crown Corporation service plans at the request of Ministries Responsible.
- Coordinates printing and distribution of Crown Corporation Service Plans by Queens Printer for distribution on budget day.

Ministry Responsible Staff

- Reviews Crown Corporation service plans and provides advice to the Minister Responsible.
- Ensures Crown Corporations post service plans to their websites following tabling in the Legislative Assembly.

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Integration with the Budget Process

Crown agencies are part of the government reporting entity and must work closely with government throughout the Budget process to ensure their budgets are consistent with the government's Fiscal Plan.

Overview

As required by the *Budget Transparency and Accountability Act*, government incorporates Crown agencies' financial plans into the overall government Fiscal Plan over a multi-year period.

A set of budget procedures have been designed for Crown agencies that are consistent with the accountability of their Boards for their financial plans, and which allows for a greater focus on performance-based outcomes. In order to understand the impact of Crown agencies on the government's Fiscal Plan, Treasury Board may ask a number of Crown agencies and their Ministers Responsible to present their financial plans to Treasury Board.

Summary of the Budget Process

Treasury Board Staff issue budget instructions each year. Four times each year, Crown agencies are required to submit to their Minister Responsible and Treasury Board a forecast of expected revenues and expenditures for the current and next four fiscal years. This information is required in May, August, October and January, and assists government with its fiscal planning and the development of multi-year budget objectives. Operating and capital forecasts are used by Treasury Board Staff for the preparation of the provincial Budget and ongoing management of the Fiscal Plan.

Every year, separate budget process instructions are issued to Commercial and Service Delivery Crown Corporations. These are communicated to both Ministers Responsible and Crown agencies in June.

Board-approved financial forecasts for Service Delivery Crown Corporations are presented to Treasury Board as part of Ministry Responsible budgets in September/October. This is done to confirm operating and capital-funding assumptions, and to ensure operating deficits do not occur without prior explicit Treasury Board approval. By December, Ministers Responsible advises Service Delivery Crown Corporations on preliminary funding. Government funding to Crown agencies is also reflected in the provincial budget through annual voted and ministry-specific appropriations. Recoveries collected from Crown agencies are also included in the budget.

Ministers Responsible present Commercial Crown Corporation operating and capital forecasts to Treasury Board in the fall.

The Minister of Finance does not provide directions related to Crown agency forecasts through this process – this is a subject for Treasury Board direction and for discussion between the Minister Responsible and the Crown agency Board. These discussions occur when the Shareholder’s Letters of Expectations are finalized and when service plans are reviewed.

The amount of the grant and/or fee for service (if any) provided to a Crown agency is determined during the negotiation of the Funding Agreement between the Minister Responsible and the Crown agency, and is subject to the approval requirements for an appropriation. This amount is included in the ministry’s budget package and presented by the Minister Responsible to Treasury Board to seek approval.

The service plan of Commercial and Service Delivery Crown Corporations will include its financial forecast and any grants/fees for service from government. The Minister Responsible must ensure that the financial assumptions in service plans are consistent with government’s Fiscal Plan prior to the service plan being tabled in the Legislative Assembly.

Approval of Rates and Fees

Some Crown agencies (e.g. Commercial Crown Corporations such as BC Hydro, BC Transmission Corporation and the Insurance Corporation of British Columbia) may have their tariffs, charges or fees regulated. The BC Utilities Commission is one of the independent regulatory agencies that carry out this function.

Crown agencies funded by government (e.g. Service Delivery Crown Corporations) must obtain Treasury Board approval for new fees, or revisions to existing fees. Revisions include increases, decreases, eliminations and exemptions. The approval requirement also applies to licenses, fines and other user charges or penalties. Further information is available from Treasury Board Staff.

Key Dates in the Budget Process

End of May	<ul style="list-style-type: none"> Multi-year forecasts provided by Crown agencies to Minister Responsible and Treasury Board Staff.
June	<ul style="list-style-type: none"> Treasury Board Staff issues budget process instructions to Ministries Responsible and Commercial and Service Delivery Crown Corporations.
July	<ul style="list-style-type: none"> Q1 Board-approved Crown agency financial forecasts are provided to the Minister Responsible and Treasury Board Staff.
October / November	<ul style="list-style-type: none"> Service Delivery Crown Corporation operating and capital budgets are presented to Treasury Board, including appropriation requests related to funding, as part of the Ministry Responsible budgets. Capital or operating plans may also be reviewed at other times during the fiscal year. Q2 Board-approved Crown agency financial updated forecasts are provided to the Minister Responsible and Treasury Board Staff.
November	<ul style="list-style-type: none"> Ministers Responsible present Commercial Crown Corporation operating and capital forecasts to Treasury Board. Capital or operating plans may also be reviewed at other times during the fiscal year.
December	<ul style="list-style-type: none"> Ministers Responsible advise Service Delivery Crown Corporations on preliminary funding.
December	<ul style="list-style-type: none"> Commercial and Service Delivery Crown Corporation draft service plans are provided to the Ministry Responsible for review; Cabinet Operations reviews drafts at the request of the Ministry Responsible.
Mid-January	<ul style="list-style-type: none"> Q3 Board-approved Crown agency financial updated forecasts and budget projections are provided to the Minister Responsible and Treasury Board Staff. Draft service plans sent to the Minister Responsible for review.
January	<ul style="list-style-type: none"> Ministers Responsible review service plans of Commercial and Service Delivery Crown Corporations, including financial plans. The Minister Responsible is accountable for ensuring that financial information in the final service plan that is to be tabled is consistent with any Treasury Board direction/approvals in the Fiscal Plan. Service plans, including financial plans, are finalized and approved by the Ministers Responsible and Crown agency Boards, incorporating any input from the Minister Responsible.
February	<ul style="list-style-type: none"> Service plans are tabled by the Minister of Finance on behalf of the Ministers Responsible in the Legislative Assembly on the same day the budget and Fiscal Plan are tabled (3rd Tuesday).

Roles and Responsibilities

Crown Agencies Resource Office

- Provides support to government (Treasury Board and Ministers Responsible) throughout the Budget process.

Treasury Board Staff

- Provides advice and analysis to Treasury Board (the Cabinet Committee responsible for budget and management matters) on Commercial and Service Delivery Crown Corporation budgets submitted with Ministry Responsible budgets and ensure all Crown agency information is incorporated into the Budget and Fiscal Plan.
- Develops the government's three-year Fiscal Plan; and identifies, monitors and manages significant risks and opportunities relating to the plan (including Crown agency information).
- Manages the government Budget and Estimates reporting process, and produces the Budget, Estimates and budget consultation document.

Ministry Responsible Staff

- Provides support to government and Commercial and Service Delivery Crown Corporations throughout the budget process.
- Advises Minister Responsible on Crown agency budget and service plan submissions, reviewing to ensure any government funding is consistent with the Ministry Responsible budget and service plan.

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Crown Agency Reporting Requirements

A basic tenet of reporting is a “No Surprises” principle. Crown agencies are expected to inform government of all emerging strategic issues on an ongoing basis. Reporting information concerning the financial and performance results of Crown agencies that is credible, timely and complete is a key component in meeting the accountability expectations of the Legislative Assembly and the public.

The *Budget Transparency and Accountability Act* requires that Ministers Responsible ensure that Commercial and Service Delivery Crown Corporations report quarterly and annually. The Act also requires Ministers Responsible to make public an annual service plan report for Commercial and Service Delivery Crown Corporations that compares actual results against the performance objectives and targets set out in their service plans.

Government Reporting Requirements

Defined reporting processes are one of the key mechanisms through which Crown agencies remain accountable for their performance. Under the *Budget Transparency and Accountability Act (BTAA)*, Ministers Responsible are required to ensure Crown agencies report quarterly and annually on their performance. Crown agencies may have additional reporting requirements in their enabling legislation.

Information Requirements and Events Calendar

An *Information Requirements and Events Calendar* is distributed to all Crown agencies. There are different versions for Commercial and Service Delivery Crown Corporations. The differences primarily relate to the budget process, and how these organizations are consolidated into government’s Summary Accounts. These calendars set out the dates on which Crown agencies must submit financial information, service plans, annual service plan reports and other information to government in order to meet statutory reporting dates and other government requirements; and that certain information being submitted will

require approval of Crown agency Boards. The *Information Requirements and Events Calendar* is updated annually and covers a two-year period to allow Crown agency Boards to schedule meetings.

<i>Act</i>	<i>Reporting Requirements</i>	<i>Timing</i>	<i>Directed to</i>	<i>Resources</i>
<i>Budget Transparency and Accountability Act</i>	Service Plan outlines 3-year goals and performance targets consistent with government's strategic priorities and Fiscal Plan, and mandate direction to a Crown agency	To Minister in December Made public 3 rd Tuesday in February	Minister Responsible, approval and tabling in the Legislative Assembly with provincial Budget and Estimates	See Service Plan and Annual Service Plan Report Guidelines on Crown Agencies Resource Office website
	Quarterly Reports set out year to-date financial information and forecasts and projections	Crown agencies submit in May, August, October, January Government reports June, September, November, February	Minister Responsible must ensure information is directed to Minister of Finance for publication of Quarterly Report and public release	Confer with the Office of the Comptroller General and Treasury Board Staff regarding the form, content and due dates of interim financial statements
	Annual Service Plan Report reports on actual results against Service Plan goals	Draft to Minister early June. Government reports end of June. Annual Service Plan Reports for Crown agencies with a Dec. 31 year-end must be made public by May 31.	Minister Responsible must approve and make public on same day as Public Accounts	See Service Plan and Annual Service Plan Report Guidelines on Crown Agencies Resource Office website
<i>Financial Information Act</i>	Statement of Financial Information containing schedules of assets, liabilities, debt, guarantees and indemnities, employee remuneration and expenses, and payments to suppliers	Within three or six months of fiscal year end, as required by the Act	Minister Responsible must ensure compliance with the Act Responsibility for compliance rests with the Crown agency submitting to Office of the Comptroller General, and posts same on its web site	Office of the Comptroller General website provides guidance package for preparation by Crown agencies and compliance checklist for Ministry Responsible staff
<i>Multiculturalism Act</i>	Annual Service Plan Report describes the efforts taken by the Crown agency to promote multiculturalism policies as set out in the Act	By May 31	The Minister Responsible for the <i>Multiculturalism Act</i> - omnibus report tabled in Legislative Assembly that combines Annual Service Plan Reports from Ministries, Crown agencies and the Multiculturalism Advisory Council	Relevant branch in Ministry Responsible for Multiculturalism
<i>Public Sector Employers Act</i>	Report on non-union compensation specifies the terms and conditions of employment for compensating senior employee and any changes that occur	Within 15 days of entering into, or modifying, an employment contract (requires pre-approval)	CEO of Public Sector Employers' Council Secretariat in a form acceptable to him or her	Public Sector Employers' Council Secretariat
	Enhanced disclosure requirements for Crown agency executives	Included with annual statement of financial information (see FIA)	Proactive disclosure on organization's website	Public Sector Employers' Council Secretariat

Quarterly Reports

Government reports on the overall financial performance of the government reporting entity through quarterly reports that disclose year-to-date revenue and expenditures, forecasts of revenues and expenditures to the end of the fiscal year, staff utilization, major capital expenditures and debt summaries, and any other information the Minister of Finance considers appropriate. The first quarter report each September updates the three-year Fiscal Plan.

Boards may establish their own internal performance monitoring and reporting procedures with management and may release quarterly reports independently. In this case, a Communications plan for the release of the information should be prepared and the Minister Responsible should be appropriately briefed in advance. As part of the government reporting entity, all Crown agencies are required to provide information needed for the preparation of the quarterly reports whether or not quarterly financial reports are independently released by the Crown agency.

Review Process

The Minister Responsible is required to ensure that quarterly reporting information is submitted to the Minister of Finance. During the Shareholder's Letter of Expectations process, Crown agencies are directed to comply with government's reporting requirements and are provided with instructions on the timing and procedures for submission of quarterly reporting information. Crown agencies are provided with a reporting calendar stipulating these reporting dates and requirements (i.e., the *Information Requirements and Events Calendars for Commercial and Service Delivery Crown Corporations*).

Annual Service Plan Reports for Commercial and Service Delivery Crown Corporations

Annual Service Plan Reports are the final element in government's larger performance management and accountability framework that covers planning, performance measurement, and reporting. They are intended to compare the actual results for a fiscal year with the expected results as identified in the Service Plan for that fiscal year. Annual Service Plan Reports are based on an organization's fiscal year, which is either January 1 to December 31, or April 1 to March 31.

The Minister Responsible is required to make public individual Annual Service Plan Reports for Commercial and Service Delivery Crown Corporations.

Although the Annual Service Plan Report compares actual performance to planned performance documented in the Service Plan, it is a stand-alone document, and should include sufficient detail to be read and understood in isolation of the Service Plan. It is intended to advance the public's understanding of the services provided and results achieved, and the performance of the Crown agency compared to its Service Plan. It should include sufficient detail to give the reader confidence in the information's relevance and reliability.

The *BTAA* stipulates that Annual Service Plan Reports must be made public annually through tabling in the Legislative Assembly if it is in session or through filing with the Clerk if the Legislative Assembly is not in session. Copies of the reports are posted on Crown agency and government websites.

Review and Approval Process

Annual Service Plan Reports are reviewed and approved by the Minister Responsible and Crown agency Board, and made public by the Minister Responsible. After being made public, they may also be reviewed by the Office of the Auditor General, the Select Standing Committee on Crown Corporations, and/or the Public Accounts Committee.

Ministers Responsible will review draft Annual Service Plan Reports for consistency with *BTAA* requirements. Guidelines for Annual Service Plan Reports, based on these requirements and *BC's Reporting Principles*, are prepared annually by the Crown Agencies Resource Office.

Crown agency Boards are accountable for the information contained in Annual Service Plan Reports and the basis on which the information has been prepared, and Chairs must sign an accountability statement affirming this responsibility.

Timelines

Annual Service Plan Reports are to be made public with the government's Public Accounts. On the following page is a schedule of key dates for Annual Service Plan Reports.

Publication and Posting

Once the Annual Service Plan Report has been made public by the Minister Responsible, Crown agencies post them on their websites, and make hard copies available; electronic versions are accessible through the government's website as well.

Subsequent Review

Crown agencies may have their Annual Service Plan Reports reviewed by a Select Standing Committee and/or the Office of the Auditor General. The Auditor General publishes an annual assessment of a sample of Annual Reports (*Building Better Reports*) which provides a review against the *BC Reporting Principles*. Decisions on whether and when specific Crown agencies will be reviewed are at the discretion of the Select Standing Committee and the Office of the Auditor General. Ministers Responsible and/or representatives from Crown agency Boards and management may be called upon to respond to any issues identified.

KEY DATES	<i>Crown Agencies with December 31 Year-end</i>	<i>Crown Agencies with March 31 Year-end</i>
Crown agency submits draft Annual Service Plan Report to Ministry contact (for Commercial and Service Delivery Crown Corporations).	Mid April	Mid May
Crown agency submits draft Annual Service Plan Report to Minister for review.	Late April	Early June
Crown agency submits Minister Responsible and Board approved Annual Service Plan Report, incorporating Minister's comments.	May	June
Minister Responsible makes the Annual Service Plan Report public.	By May 31st	With Public Accounts (usually last week in June)
Review of Annual Service Plan Reports by the Legislative Assembly or its Committees, and the Office of the Auditor General.	Ongoing	Ongoing

Roles and Responsibilities

Crown Agencies Resource Office

- Provides Annual Service Plan Report Guidelines and advice to Crown agencies and government.
- Jointly with Treasury Board Staff and Office of Comptroller General prepares the annual *Information Requirements and Events Calendar*.

Cabinet Operations

- Reviews and provide advice on draft Annual Service Plan Reports prepared by Commercial and Service Delivery Crown Corporations at the request of Ministries Responsible.

Ministry Responsible Staff

- Provides advice to the Minister Responsible related to quarterly reporting information and draft Annual Service Plan Reports prepared by Commercial and Service Delivery Crown Corporations.
- Ensures compliance with *Financial Information Act* for all Crown agencies within portfolio.

Office of the Comptroller General

- Receives year-to-date actual information from Crown agencies and prepares quarterly consolidated financial statements for the government reporting entity for publication in the Quarterly Reports.
- Receives year-end audited financial statements and comparative financial statements and prepares the Public Accounts.
- Undertakes reporting according to *Balanced Budget and Ministerial Accountability Act* requirements.
- Oversees overall compliance with the *Financial Information Act*.
- Jointly with Treasury Board Staff and Crown Agencies Resource Office prepares the annual *Information Requirements and Events Calendar*.

Treasury Board Staff

- Receives quarterly forecasts and Fiscal Plan updates and evaluates implications for government's overall Fiscal Plan.
- Oversees publication of the Quarterly Reports and the Budget and Fiscal Plan.
- Jointly with Office of Comptroller General and Crown Agencies Resource Office prepares the annual *Information Requirements and Events Calendar*.
- Advises Treasury Board on issues affecting government's Fiscal Plan and other financial management issues.

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Crown Agency Mandate Review

Government may undertake periodic reviews of some or all of a Crown agency's mandate and/or service delivery model to ensure:

- A Crown agency's mandate and policy direction is aligned with government's strategic priorities and Fiscal Plan; and
- A Crown agency's practices are consistent with government's governance, accountability and performance reporting requirements.

Mandate reviews are approved by Cabinet.

Review by Classification

Ministers Responsible, or Cabinet, may initiate a mandate review for Commercial and Service Delivery Crown Corporations.

Purpose and Initiation of Mandate Reviews

The purpose of undertaking a mandate review is to:

- Consider whether the circumstances that led to the creation of a Crown agency have changed sufficiently to warrant new direction in the Crown agency's functions or operations;
- Provide an opportunity to consider whether functions –either within a Crown agency or across organizations that deliver related functions – should be restructured given changing government priorities, customer requirements or expectations, or changes in the government's overall delivery strategy or policies;
- Determine if a new Crown agency is required to satisfy a policy objective that is best delivered with some level of independence from government; and
- Determine if an existing Crown agency should be dissolved.

A mandate review is a significant and resource-intensive undertaking that may examine the operations and purposes of the Crown agency in its entirety. In the absence of a full review, mandate direction may be provided through Directive Letters and/or Letters of Expectations. (See chapter 6.) A Minister Responsible or Cabinet may formally initiate a mandate review based on one or more factors.

Potential Triggers for a Mandate Review

- A significant reorganization of government functions;
- A Crown agency has had its purpose or function significantly altered;
- Government or the public is dissatisfied with the performance or operation of the Crown agency;
- There are several organizations that support or are dependent on the activities of the Crown agency, and these co-dependencies are not functioning adequately, or there has been a significant change in one or more of the organizations;
- Government wishes to implement major new policy initiatives that would affect the Crown agency;
- There are ongoing or significant financial issues (losses, revenues below target, large unexpected fluctuations) within the Crown agency;
- The Crown agency's budget, Service Plan, Annual Service Plan Report, operating environment or governance is causing concern for the Minister, the Board, senior management or the government;
- The Crown agency is engaged in, or proposing to engage in, high-risk activities that could have a significant financial or operational impact on the government;
- There have been socio-economic or structural changes that require a new government service or reduce/eliminate the need for an existing service;
- There has been an expansion of the Crown agency's mandate that causes concern; and/or
- There have been significant issues or friction between the Crown agency and its major stakeholders.

Consultation/Review/Approval Requirements

The Minister Responsible will consult with the Chair of the Crown agency Board when a mandate review is contemplated to determine the scope of the review and the Crown agency's level of involvement. The results of a mandate review must be approved by Cabinet and Treasury Board (if there are fiscal issues).

Mandate Review Process

A mandate review proceeds through 3 sequential steps to:

- Step 1:* Determine whether the functions of the Crown agency continue to be in the public interest;
- Step 2:* Evaluate whether the functions undertaken are delivered in the most efficient and effective way and in a manner consistent with government's strategic priorities and policy objectives; and
- Step 3:* Consider the organizational and governance arrangements for the Crown agency to ensure that government's direction can be carried out.

Roles and Responsibilities

Crown Agencies Resource Office

- Provides advice and support to Minister Responsible and Cabinet on Mandate Review process and submissions as requested.

Treasury Board Staff

- Provides advice concerning Fiscal Plan implications, and impacts on Ministry budgets and appropriations.

Ministry Responsible Staff

- Provides advice to Minister Responsible in conducting analysis and preparing mandate review submission.

Attorney General – Legal Counsel

- Identifies legislative implications related to intergovernmental agreements/obligations, contractual obligations and enabling legislation, in conjunction with Crown Agencies Resource Office, Office of the Comptroller General, and Treasury Board Staff.

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Dissolution of a Crown Agency

Dissolution of a Crown agency must be approved by Cabinet and be consistent with any applicable statutory requirements.

The process of winding-down a Crown agency can be more complex than the process to establish one. The key steps in initiating the dissolution process are establishing a project team and project charter to manage the wind-down.

The Dissolution Decision

The decision to dissolve a Crown agency typically arises from a mandate review, or a legislated program completion or termination date, and must be approved by Cabinet.

Dissolution involves a set of procedures to wind down the business, and address financial and human resource considerations. In the case of incorporated Crown agencies, this process leads to the execution of a legal mechanism that formally dissolves the corporate structure.

The Minister Responsible communicates the decision to dissolve the Crown agency, and any specific instructions, to the Crown agency Board. The Minister and the Board then jointly determine the composition of a project team to manage the process. The composition of the project team is described in the sections below.

The general steps in the dissolution process depend on the Crown agency's corporate status and on any specific provisions in the enabling legislation, articles of incorporation or other applicable statutes. The specific activities required to dissolve a Crown agency will vary and must be formally defined by the project team in a Charter that describes the scope, duration and major milestones in the dissolution process. This Charter must be approved by the Minister Responsible and the Crown agency Board.

Dissolution of Crown Agencies

Given the complexities of winding down a Crown agency, it is useful to create a cross-government team to manage the process. The ministry staff of the Minister Responsible will generally lead the process and be accountable for completion of the dissolution. Crown Agencies Resource Office and Treasury Board Staff will play major roles.

Dissolution Team for Crown Agencies

Should include representatives from:

- ✓ the Ministry Responsible
- ✓ the Crown agency
- ✓ Legal counsel representing both the Crown agency and government
- ✓ Office of the Comptroller General
- ✓ Treasury Board Staff
- ✓ the Crown Agencies Resource Office
- ✓ the Public Sector Employers' Council Secretariat

The classification of the Crown agency, how it was established, and the complexity of its operations and/or corporate structure will all influence the scope of the project and the choice of one of the following legal mechanisms for effecting dissolution:

- The use of specific dissolution provisions in the Crown agency's enabling legislation and/or statute;
- The application of the dissolution provisions in the *Business Corporations Act*; or
- The preparation of specific repealing legislation.

The dissolution team will need to establish a plan for the orderly elimination of the corporate infrastructure, wind-up of program delivery, liquidation of assets and management of liabilities prior to beginning the formal dissolution process.

General Considerations for Dissolution of a Crown Agency

- Determine Dissolution Process – specific statutory provisions, *Business Corporation Act* or repeal statute
- Identify Decision Points – determine key decisions required by Board and/or other decision makers related to critical milestones in wind-up of Crown agency
- Review Corporate Structure – to identify scope of dissolution (e.g. are there subsidiaries affected by the dissolution of the parent corporation?)
- Financial Management – develop a liquidation plan to minimize loss to the Shareholder and implications for the government reporting entity; identify any issues related to existing capital projects, accounting issues, estimates treatment, reporting requirements, share disposition, preparation of final audited financial statements, public accounts presentation, and recognition of the costs associated with timing of exit and/or restructuring
- Legal and/or Contractual Obligations – identify any pending legal issues (e.g. lawsuits, court cases etc) and/or contractual agreements and the terms for cancellation
- Taxation and Agreements – identify tax implications related to the liquidation of assets and revenue-generating capacity (e.g. taxation, fees, licenses), and implications for intergovernmental agreements
- Labour Relations and Human Resources Management – review obligations to employees (including executive contracts, severance, collective agreements, pensions, etc) and ensure staffing plan retains sufficient resources to complete dissolution
- Communications – develop communications strategy
- Management of Records – identify the entity that will act as the records office following dissolution and determine document retention and storage requirements
- Board – terminate appointments
- *Budget Transparency and Accountability Act* Exemption – consider exemption from public reporting requirements under the *BTAA* while dissolution process is underway
- Administrative - address any other administrative requirements (such as winding up web sites) that may need to be managed

Unincorporated Crown agencies are managed within government from a financial (and in some cases administrative) perspective. Dissolution of such Crown agencies must therefore follow procedures required for the elimination of government programs.

Roles and Responsibilities

Crown Agencies Resource Office

- Provides dissolution guidelines and advice to Crown agencies, their Boards, Cabinet and Ministers Responsible on the dissolution process.
- Typically participates on the project team for the dissolution of a Crown agency.

- Maintains Crown Registry and updates based on any dissolution.

Ministry Responsible Staff

- Leads the dissolution project team.
- Informs the Crown Agencies Resource Office of dissolution to ensure Crown Registry is accurate.

Ministry of Attorney General – Legal Counsel

- Identifies legislative implications related to intergovernmental agreements/obligations, contractual obligations and enabling legislation, in conjunction with Crown Agencies Resource Office, Office of the Comptroller General, and Treasury Board Staff

Office of the Comptroller General

- Member of the project team, with a focus on accounting/financial issues.

Treasury Board Staff

- Member of the project team; identifies any fiscal issues or matters requiring Treasury Board decision.

Ministry of Finance – Tax Policy Branch

- Provides advice regarding tax implications related to the liquidation of assets, revenue-generating capacity (e.g. taxation, fees, licenses), and implications for intergovernmental agreements.

Public Sector Employers' Council Secretariat or the Public Service Agency

- May be a member of the project team, to assist with labour relations/human resources issues.

Board Resourcing and Development Office

- Provides advice regarding processes for dissolving Crown agency Board.

Appendix 1 – Legislative Checklist for Commercial and Service Delivery Crown Corporations

This appendix is intended as a guide and provides a list of provisions that should be included in enabling legislation or addressed through other incorporating documents. Each Crown corporation will have somewhat unique circumstances that may need to be addressed with provisions not contemplated in this list. This appendix is not intended to set out a required structure for legislation, as other provisions not listed here may be required. The Crown Agencies Resource Office should be consulted early in the process.

Where a provision is noted as “mandatory”, its objective must be covered in some form of legislation or constituting mechanism. Where a provision is noted as “optional”, its applicability may vary depending on the nature of the proposed Crown Corporation. The provision should be assessed and a determination made regarding its validity and/or the need for a different or modified approach.

Provision	Objective	Mandatory	Recommended	Optional
Purpose	Statement of the purpose/mandate of the corporation. Powers in other sections may be limited to actions consistent with the purposes described in this section.	<input checked="" type="checkbox"/>		
Establishment and Powers	Legislation must establish the corporation and specify its powers and capacity. The Lieutenant Governor in Council should also be provided with the power to make regulations as appropriate to implement administrative or other provisions of the Act.	<input checked="" type="checkbox"/>		
Capacity	It is recommended that the corporation be provided with the powers and capacity of an individual with full capacity. These powers are limited by the purpose of the corporation and by regulations under the Act.		<input checked="" type="checkbox"/>	
Agent of Government	Designating a Crown corporation as an agent of the government provides certain immunities to the corporation – e.g. federal taxation statutes and municipal zoning requirements do not apply. Establishing a Crown corporation as an agent may increase Crown financial liability where it has the ability to sign contracts, borrow, invest or create subsidiaries. Even when a corporation is not explicitly an agent by statute, it may be an agent by common law. Therefore, an evaluation of the applicability of this provision should be conducted on a case by case basis with advice from appropriate legal counsel.		<input checked="" type="checkbox"/>	

Provision	Objective	Mandatory	Recommended	Optional
Governance of Authority				
Board of Directors – appointment, term of office and qualifications	<p>Cabinet and/or the Minister Responsible appoints the majority of the members of the Board. The Chair and CEO positions should be separate, and CEO’s should not serve as directors. Elected provincial officials are not appointed to Boards and only in very rare instances are public servants appointed as Board members.</p> <p>Provisions should be included to specify the number of Board members, the number appointed by government, other appointment procedures (such as industry or sectoral representation) and the term of office , qualifications, other factors to be considered such as replacement of directors, register of directors, when director ceases to hold office etc.</p> <p>The Board Resourcing and Development Office should be consulted when developing the specific Board structure.</p>	<input checked="" type="checkbox"/>		
Nomination & Appointment Process	<p>In some cases, a nomination and appointment process for the identification of potential Board members may be appropriate.</p> <p>Provisions that outline the nomination and appointment process should include merit based appointment standards and be accompanied by supporting provisions that at a minimum address:</p> <ul style="list-style-type: none"> • basic qualifications • disclosure of any conflict of interest • other factors that would make a candidate unsuitable to hold the position of director (e.g. criminal record, officer of the authority, elected official, employee of a stakeholder group or government) • the conditions under which a director ceases to hold office 			<input checked="" type="checkbox"/>
Power/Duties of the Board	<p>The Board of Directors has a fiduciary responsibility for the conduct of the Crown corporation and the oversight of management. Provisions must be included to specify the role and responsibility of directors and how they will undertake these duties.</p>	<input checked="" type="checkbox"/>		

Provision	Objective	Mandatory	Recommended	Optional
	<p>These provisions include:</p> <ul style="list-style-type: none"> establishing a Chair and Vice Chair – in certain circumstances, government may wish to specify how the Chair is selected standards of conduct of directors and senior officers bylaws that establish the procedures for establishing conduct of its affairs, exercise of powers, performance of functions and duties etc. 			
Meetings and Quorum	Must include provisions that set out the minimum number of meetings that must be held each year and set out any public notification requirements. The number of directors constituting a quorum must also be established.	<input checked="" type="checkbox"/>		
Remuneration and Expenses	Specify that appointed members may be paid remuneration at rates set by government. Cabinet, via Treasury Board may establish remuneration levels for Board members.	<input checked="" type="checkbox"/>		
Conflicts of Interest	The interests that must be disclosed by directors and/or senior officers should be clearly established. Provisions should also be included to define the necessary reporting and treatment of conflicts of interest, should they arise, on the part of Board members or officers of the corporation.	<input checked="" type="checkbox"/>		
Officers and Employees				
Appointment of CEO	Boards must appoint the Chief Executive Officer of the corporation.	<input checked="" type="checkbox"/>		
	Executive compensation plans, including the remuneration of the CEO, must be in compliance with government policy on executive compensation.	<input checked="" type="checkbox"/>		
Appointment of Senior Officers and Other Employees	Outline who has the power to appoint senior officers and employees. In some instances it may be appropriate to stipulate that particular positions must exist such as particular specialist or technical expertise positions	<input checked="" type="checkbox"/>		
Compensation and Labour Relations	<p>The <i>Public Service Act</i> and the <i>Public Service Labour Relations Act</i> will only apply to the corporation if specifically indicated. An evaluation of the merits of applying the PSA and the PSLRA to the corporation should be conducted.</p> <p>For example, if the PSA applies, employees of the corporation will be covered by compensation plans set by the Public Service Agency and the Public Service Agency</p>		<input checked="" type="checkbox"/>	

Provision	Objective	Mandatory	Recommended	Optional
	<p>will be the bargaining agent for employer.</p> <p>If these Acts do not apply, provisions should be made to indicate how compensation and labour relations will be managed. The Public Sector Employers Council Secretariat should be consulted as required regarding executive compensation planning, human resources regimes and labour relations mandates of Crown corporations.</p>			
Benefits	Treatment of, or provision for, benefits should be covered. This could include the application <i>Public Sector Benefit Plan Act</i> .		<input checked="" type="checkbox"/>	
	Treatment of, or provision for, pension plans should be covered. This could include the application of the <i>Public Sector Pension Plans Act</i> . Corporations with their own pension plans are responsible for all aspects of managing the pension plan in accordance with the <i>Pension Benefit Standards Act</i> .		<input checked="" type="checkbox"/>	
Financial Administration				
Accounting Practices	Provisions related to accounting practices should specify the fiscal year of the organization, the creation of accounting systems that are satisfactory to the Minister of Finance, provide for the openness of records to inspection by the Minister Responsible and enable the Minister of Finance to direct the Office of the Comptroller General to investigate any aspect of the financial administration of the corporation.	<input checked="" type="checkbox"/>		
Borrowing and Investing	<p>The ability of the corporation to invest surplus funds or borrow funds should be specified along with any restrictions on these powers. Where these powers are provided, the Minister of Finance is typically set as the fiscal agent of the corporation.</p> <p>Despite these provisions, the Lieutenant Governor in Council may, under the <i>Financial Administration Act</i>, make regulations that restrict these powers.</p>			<input checked="" type="checkbox"/>
Auditor	Sets out requirement to appoint an external auditor to audit the accounts of the corporation at least once a year unless the Auditor General has been appointed in accordance with the <i>Auditor General Act</i> .	<input checked="" type="checkbox"/>		
Corporation Revenue	It may be appropriate to establish provisions that set out how fees or other revenue sources can be introduced or amended. This could include the frequency of changes; prescribe that fees be approved by an independent third party/commissioner; or be set by			<input checked="" type="checkbox"/>

Provision	Objective	Mandatory	Recommended	Optional
	regulation.			
Application of Legislation				
<i>Business Corporations Act</i>	When enabling legislation contains express provisions (e.g. standards for financial administration, audit, records, meetings, disclosure etc.) a provision should be included to indicate the <i>Business Corporations Act</i> does not apply. The ability for the Lieutenant Governor in Council to declare that certain provisions of the <i>BCA</i> apply by regulation must also be included.	<input checked="" type="checkbox"/>		
<i>Records – Document Disposal Act</i>	Provisions should be included to specify the type and retention of records and their availability to the public. This can include the prescription of reasonable fees for copies or access to certain records.		<input checked="" type="checkbox"/>	
Laws of General Application	May state that certain laws of general application do not apply to the corporation (e.g. <i>Workers Compensation Act</i> , the <i>Employment Standards Act</i> , and <i>Ombudsman Act</i>).			<input checked="" type="checkbox"/>
Other				
Creation of Subsidiaries	Approval of Lieutenant Governor in Council is required to create a subsidiary.	<input checked="" type="checkbox"/>		
Dissolution	Mechanisms designed to simplify the wind-up of the Crown corporation should be considered. For example, sunset provisions should be included where a corporation is created for a specific defined timeframe or purpose. Where possible, these provisions should also include guidance for handling the termination of the entity – such as transfer of assets, liabilities, staff etc.			<input checked="" type="checkbox"/>
Transitional and Consequential Provisions	Specific provisions required bringing the new Crown corporation into effect such as the transfer of assets or the amendment or repeal of other statutes should be included.		<input checked="" type="checkbox"/>	