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# Federal Government Management Reform Initiatives: Are They Needed?

Alan Gilmore

During the past two years there has been a flurry of new management initiatives in the federal government. The objective is to create more accountability and scrutiny so the mistakes that beset governments in the past will be reduced.

It's hard to argue with such good intentions. But not everyone thinks the measures were necessary. A reasonable observer of the federal administration might, justifiably, conclude that the rules and policies already in place should have prevented the mismanagement of funds in the sponsorship program. Thus, there are concerns that the new administrative rules will just tie the system into bigger knots, making it even more difficult to get things done. And, given the history of flawed and discarded management initiatives in the federal government, it would be hard to criticize public servants if they saw the latest initiatives as the flavour of the month and expected that on-going pressures to get things done will, over time, generate ways to bypass the initiatives.

The Financial Administration Act (FAA) is the bedrock for the financial and administrative control in the Canadian government. It charges ministers, deputy ministers and their delegates with responsibilities to protect the public purse. The FAA establishes the Treasury Board to oversee federal spending. The Board is composed of at least six ministers, including its President and the Minister of Finance. The FAA gives the Board specific authority to issue directions related to the management and control of funds. According to the Treasury Board Secretariat, there are now more than 400 Treasury Board policies, directives, and guidelines. Most of these have been issued pursuant to the FAA. The FAA also authorizes the passing of regulations. There are currently 13 regulations that apply government-wide, for example, the Government

Contract Regulations.

The FAA also sets rules for collecting, managing and spending public funds as well as requirements for departments and agencies to establish internal control over their funds. Deputy Heads must establish controls and records on financial commitments. Only ministers or their delegates can request a payment be made, and they must certify that the work has been performed, the goods received, or the services rendered before that payment is issued.

According to the Treasury Board Secretariat, public servants also are "*responsible at all times for conforming to established standards of conduct, implicit or explicit*" in such documents as the Values and Ethics Code for the Public Service, the Policy on the Internal Disclosure of Information Concerning Wrongdoing in the Workplace, and the Policy on Losses of Money and Offences and Other Illegal Acts Against the Crown (my emphasis). Ministers and Governor-in-Council appointees must respect the Conflict of Interest and Post-employment Code for Public Office Holders.

In addition, the 11 Chapters of the Public Works and Government Services (PWGSC) Supply Manual contain detailed policies for departmental purchasing and references to relevant government laws and conditions.

These policies and other Acts, such as the Access to Information and Privacy Acts, establish a reasonably comprehensive management framework with an array of detailed obligations. They make departments responsible for managing expenditures and allocated assets; achieving objectives, and implementing management systems to ensure that they met their duties and obligations, and monitored their performances. Reasonable observers might conclude that simply following the existing rules would have prevented the sponsorship program mismanagement.



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The need for more government-wide policies could also be questioned on the basis that the sponsorship program mess is unique. Since it is not representative of how government programs are run or ministers or public servants conduct themselves it should not be allowed to tar and envelop the entire system. Examination of most government programs would not find – as the Gomery Commission has – a pattern of:

- insufficient oversight at the senior levels of the public service which allowed program managers to circumvent proper contracting procedures and reporting lines;
  - a veil of secrecy surrounding the administration of the Sponsorship Program and an absence of transparency in the contracting process;
  - reluctance, for fear of reprisal, by virtually all public servants to oppose the will of a manager who was circumventing established policies and who had access to senior political officials; and
  - a complex web of financial transactions among Public Works and Government Services Canada (PWGSC), Crown Corporations and communication agencies, involving kickbacks and illegal contributions to a political party in the context of the Sponsorship Program;
- While it's true that this pattern isn't rep-

representative, this doesn't mean that serious mismanagement is absent in other programs. The Annual Auditor General reports annually identify instances of significant mismanagement. For example, the Auditor General has reported:

- Serious problems with the government's Work Force Adjustment Policy. Between July 1986 and December 1991 payments in lieu of continued employment, separation benefits and waivers cost more than \$325 million. The typical payment was about \$30,000. The audit of payments made between April 1990 and December 1991 showed that 35 percent were unjustified and 29 percent were questionable. Questionable payments involved cases where Policy wasn't followed. The Treasury Board Secretariat responded that managers believed and a strong case could be made that even though payments weren't made in accordance with the Policy they were "justified" because they "saved taxpayers money, renewed their workforce, or resolved difficult personnel situations." (Chapter 7, 1992 Report of the Auditor General)
- The Department of Fisheries and Oceans in 1987 circumvented a Treasury Board Decision and approved a \$600,000 contract with the New Brunswick Department of Fisheries for services to a Marine Service Centre on Grand Manan Island, New Brunswick; and in 1995 and 1997 Revenue Canada awarded a duty free shop licence in a manner that undermined the transparency and credibility of the award process. (Chapter 3, 1988 and Chapter 36, 1997 Reports of the Auditor General)
- In 1994, Public Works awarded an advertising contract for Tourism Canada worth \$65.7 million, without calling for tenders. (Chapter 4, 2003 Report of the Auditor General)
- Between 1987 and 1998, audits of grant and contribution programs had produced an embarrassing list of observations: poor compliance with program authorities, poorly designed programs, instances of poor controls, and sub par measurement and reporting of performance. For example, in 1998, 30 percent or \$9 million in expenditures under the Department of Heritage Multiculturalism program had not been assessed and approved with due diligence. It wasn't until 2001 that the Department was found to be making progress to rectify the situation. However, the Auditor General now found a similar lack of due diligence in the Department's Support for the Official Languages Communities program. (Chapter 5, 2001 Report of the Auditor General)
- Audits of sole-source contracts worth \$16 million in five departments for professional services found many examples of inadequate due diligence. The nature and scope of the work required were underestimated, and the contracts didn't always clearly specify what contractors were to deliver. It often appeared that the contractors decided what was needed, how much effort it would take and at what point the job would be considered completed. The justifications for over two thirds of the sole-source contracts did not meet the criteria set out in the Government Contracts Regulations that permit sole-sourcing a contract. Breaking the basic rules in letting sole-source contracts seemed to be widespread. "Getting on with the job" was sufficient justification for deciding largely to ignore the rules"

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and disregarding Treasury Board regulations and policies appeared to “involve no significant consequences for either the managers responsible or their departments.” (Chapter 26, 1998 Report of the Auditor General)

The basic rules are pretty clear. It's not the absence of regulations, rules and policies that are the problem, but rather that they are often not respected. Why is this the case? One situation where we have enough information to give us some insights is the controversy over mismanagement by Human Resources Development Canada (HRDC) of its grants and contributions program. Chapter 11 of the October 2000 Auditor General reports indicated HRDC's management practices had worsened in the 1990's. HRDC's own audits of four programs revealed “widespread deficiencies in the management control frameworks” including “breaches of authority, payments made improperly, very limited monitoring of finances and activities, and approvals not based on established practices.”

On the surface, these findings appear to confirm that the source of the problem was, indeed, weak and inadequate financial controls. But was it? A closer look reveals that the real source of the problem was major cross-currents in government policy. These events are for the most part summarized in the Auditor General's April and November 2000 reports.

HRDC “went through several management changes followed by cutbacks and downsizing as part of Program Review” with the 1994-95 Program Review resulting in HRDC reducing its annual workforce by 5,000 and its operational spending by \$200 million. As part of the cutbacks the Department greatly reduced its verification of payments and operational reviews, and internal audit resources were reduced to 33 full-time staff in 1999-2000 from 54 full-time staff in 1994-95.

During more or less the same time frame, HRDC focused on improving service to Canadians as part of a government-wide Treasury Board Secretariat initiative. Its praised “Breaking Barriers” initiative emphasized cutting red tape, refocused its service delivery system and culture to empower local offices, and cut management

layers. Many middle managers retired as part of Program Review and in response to workforce adjustment incentives. The result was a loss of corporate memory, experience and capacity – especially at the local level – exactly where decision-making authority was going to be centered. Only one person was left between the director of a local Human Resource Centre and the Deputy Minister. Directors of each the 100 HRDC Human Resource Centres were given full autonomy to provide the best service to clients and front-line staff were given authority to deal with clients at the first point of contact.

This was the environment in which the grants and contributions programs that caused so much grief were introduced. It was an environment that emphasized service and cutting red tape rather than adherence to key controls. It left relatively junior and inexperienced local staff with the responsibility for dealing with senior officials of companies and organizations who wanted funding for projects, and with parliamentarians who, as part of the program, were involved in the decision making process.

The lesson of the HRDC situation is not that there was an absence of controls... but rather a culture had been fostered whose message was that adherence to basic financial and management controls was not a priority, getting money to clients was. Some HRDC officials in charge at the time have come to view the ensuing controversy as “a perfect storm” where they were caught in waves of criticism for managing in a manner that they had come to believe was proper and effective, and endorsed by central agencies. These officials found out in a hard and less than fair way that the bottom line for managing public funds is adherence to basic regulations and rules that protect the public purse rather than quickly delivering funds to companies and organizations.

What conclusions can we reach? First, there was and is an extensive financial and management control framework in the federal government that should have prevented mismanagement in the sponsorship program. Second, there have been numerous instances over the years, in a variety of programs, where key regulations, rules and

policies have not been followed or have been circumvented. In at least one major case this was because of clear messages that other priorities were more important.

Efforts to increase accountability and transparency are always welcomed in a democracy and the new initiatives may be worthwhile in their own right. However, a reasonable person could make a good case that more controls aren't needed and could question the value they could add. Creating a layer of new rules won't improve the situation if the underlying causes are not addressed. Without such action the new policies will inevitably be by-passed or disregarded as public servants get conflicting messages and are under pressure to get the job done.

Fundamentally, the problem isn't a lack of controls, or the need for new controls. It's a decline – at all government levels – in respect for the basic controls. Compounding the problem is a willingness to accept an increasing range of justifications for not adhering to the fundamental principles. Ministers and senior managers need to acknowledge that the existing financial and management control framework is, too often, ignored, and that whatever the justification, in too many instances public business is being conducted in a manner that circumvents or disregards fundamental principles of control over the public purse.

Developing an array of new financial and management controls and policies is one response. A more cost-effective and transparent way would have been to directly address one of the primary sources of the problem. Make it absolutely clear to ministers and senior public servants that the proper conduct of the public's business is *the* priority. And that lack of respect for basic controls will mean that those directly responsible and on whose watch it occurred will receive clear and immediate sanctions, including requiring ministers to resign under a re-invigorated and meaningful principle of ministerial responsibility. Maintaining this policy on a sustained basis would support the vast majority of public servants who want to conduct public business properly and it would solve many of the problems in government administration. ■