

5.6 Delays in Responses to Legal Letter Requests

In January 1978 a Joint Policy Statement between the Canadian Bar Association and the Canadian Institute of Chartered Accountants introduced a requirement that an entity arrange for its lawyer to provide a “legal letter” directly to its auditor. The legal letter is necessary to identify potential liabilities and to be aware of any events that may have occurred between the date of the financial statements and the date of the auditor’s report.

Since this requirement was first introduced, the Department of Justice has been providing these legal letters in a timely manner. However, in 2003 and again in 2004, there have been significant delays experienced by many of these entities in receiving legal letters from the Department of Justice. In 2004 for example, of the 25 entities audited by my Office which requested a legal letter from the Department, the average wait-time was 8 weeks before receiving their legal letters - one entity waited 131 days. Both Government protocol and the Joint Policy Statement require a response within two weeks.

Officials at my Office and I have had a number of discussions with senior officials at the Department of Justice in an attempt to resolve these delays; however, I have not had any success in resolving this matter. I also note that the Office of the Comptroller General has also expressed concerns about delays in the issuance of financial statements caused by the Department’s inability to respond within acceptable time frames.

As a result of the delays, Boards are not receiving their audited financial statements on a timely basis and this in turn contributes to the lack of timely financial statements being available for the Office of the Comptroller General. This can result in the Comptroller General having to use draft financial statements when preparing the Province’s financial statements. The delays also have a negative impact on the work schedules of my Office.

Furthermore, prior to 2003 the Department provided legal letters without charge. However, in 2003 the Department introduced a flat \$300 charge payable in advance by the entity before a legal letter would be provided. There have been several instances where confusion about the required payment has contributed to the delays in providing legal letters.

Recommendation

Government should require the Department of Justice to provide legal letters on a more timely basis and determine whether the \$300 fee is appropriate.