

TO: UBCM Members  
FROM: UBCM Executive  
DATE: September 19, 2011  
RE: **MUNICIPAL AUDITOR GENERAL**

**POLICY PAPER**  
**#1**  
**2011 Convention**

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**1. DECISION REQUEST**

To consider recommendations to guide further policy development in relation to a proposed Municipal Auditor General for BC local governments.

**2. BACKGROUND**

The Province is currently engaged in a policy development process aimed at implementing an Office of the Municipal Auditor General (MAG).

The UBCM membership has not provided specific policy direction on a MAG. Consequently, this Policy Paper sets out recommendations that, if endorsed, will form the basis for that policy direction. In considering policy direction, the membership is advised to consider the terminology “Municipal Auditor General” or “MAG” to be inclusive of both municipalities and regional districts.

The Premier’s commitment to create a MAG is one element of a “review of municipal taxation” set out in the Families First Agenda, which also commits to fund the office as part of the Provincial Auditor General’s Office, review the municipal taxation formula, and work with UBCM to ensure municipalities are properly funded and communities can provide the services British Columbians want from local government. The Province has indicated it wants to implement the MAG commitment prior to considering other elements, including ensuring municipalities are properly funded.

Consultations with interested parties are underway. In late July, Minister Chong surveyed all local governments to solicit their views about specific design elements of the proposed MAG. At that time UBCM produced a MAG Context Paper to provide background to local governments as they considered the Minister’s survey. While much of the background research set out in this Policy Paper replicates that provided in the Context Paper, the Policy Paper moves beyond that background by setting out a number of relevant policy considerations, as well as principles and a recommendation for the consideration of the membership.

**3. RESEARCH**

**3(a) Local Government Financial Accountability System**

An overview of the local government and provincial financial accountability systems, is presented in Appendix I. While the local government and provincial government financial accountability systems are different, they appear to compare favourably.

Both the federal and provincial orders of government have Auditors General in place, and the lack of performance auditing for local governments has been cited as a weakness of that system. However, while the Provincial system does rely more heavily on performance measurement and performance auditing, the local government system is heavily reliant on statutory limitations imposed by the Province, and Provincial oversight roles.

### 3(b) MAG legislation in other Canadian provinces

The following table summarizes what municipalities in other Canadian provinces must have a MAG, and which could appoint one at their discretion.

MAG Required	Local government is empowered to appoint MAG	No provision for MAG <sup>1</sup>
Quebec (municipalities with populations over 100,000)	Ontario (specific provisions)	Quebec (municipalities with populations under 100,000)
Toronto	Winnipeg (specific provisions)	Manitoba (except Winnipeg)
Nova Scotia: Halifax (legislation in force); all other municipalities (if the 2008 legislation is brought into force)	Alberta (through general officer powers) <sup>2</sup>	Saskatchewan
	BC (through corporate or natural person powers and audit powers) <sup>2</sup>	New Brunswick
		Prince Edward Island
		Newfoundland

There is no province in Canada that currently has a MAG in place for all local governments; further, there is currently no MAG in Canada with jurisdiction over more than one local government entity. Further details of the cross-jurisdictional analysis are set out in Appendix II.

### 3(c) Key elements of powers, scope and structure of Auditors General and MAG Offices in Canada

Details of the key structural elements set out in various AG/MAG legislation is set out in Appendix III. The following provides a summary of that information.

<sup>1</sup> While a legislative scan did not indicate a specific requirement for a MAG or specific municipal empowerment to appoint a MAG, local governments in these provinces may have sufficient generalized powers to appoint a MAG, under the same types of authorities as are available in Alberta and BC.

<sup>2</sup> General empowerment provisions allow local governments in these provinces to appoint a MAG, but do not prescribe how those Offices function, so each local government wishing to implement a MAG could have different structures/functions etc for the Office, and potentially differing degrees of independence.

**Scope:** AGs and MAGs typically are responsible for audits in relation to a single government, including all departments/ministries, agencies, corporations, etc, which are part of the government's reporting entity, as well as funds held in trust by the government, and individuals or organizations receiving government funds.

**Duties/Functions:** AGs/MAGs can typically perform three types of audits: attest/financial audit; compliance audit; and performance audit. Attest audits are often specifically excluded from MAG duties, as a local government's external auditor customarily undertakes these audits. Additional duties can be assigned through the governing legislation. These typically involve special examinations upon request of the governing body of the entity being audited.

**Government policy exclusions:** AGs/MAGs typically do not comment on the merits of government policy. While a performance audit seeks to determine the effectiveness, efficiency or economy of the implementation of a policy choice, it does not question the policy choice itself.

**Enforcement:** AGs/MAGs typically make recommendations only, and cannot require implementation of those recommendations.

**Auditor independence and accountability:** AG/MAG legislative provisions typically employ a number of techniques to enhance the independence of auditors (e.g., set terms of office and super-majority vote to terminate; considerable independence for AG/MAG to set audit priorities; Officer of the Legislature for provincial AGs; statutorily set minimum funding). In addition, most legislation also provides elements designed to maintain AG/MAG accountability in relation to the efficiency and effectiveness of the Office and compliance with the Office's legislative framework (e.g., required performance planning and reporting).

#### **4. CONSIDERATIONS**

##### **4(a) Powers, duties and limitations for a BC MAG**

An approach to considering the appropriate powers, duties and limitations for a BC MAG could be based on using the core powers, duties and limitations provided in other AG/MAG legislation in Canada as a starting point, and then making adjustments to these in order to meet other principles or system objectives. Key in that regard are objectives to maintain overall accountability system efficiencies by avoiding duplication and to build on existing elements of the accountability system wherever possible.

This approach would lead to the following powers, duties and limitations for the BC MAG:

- Audit functions: performance auditing only;
- Limitation on audit functions: no review or comment on merits of local government policy choices; and
- Procedural powers in relation to audits, such as: must conduct audits in accordance with generally accepted auditing and assurance standards; power to require information in relation to audits; requirement to report to local government (and publicly) on results of audit, but no power to enforce recommendations.

This list is consistent with the core powers, duties and limitations provided for most AGs/MAGs, with the exception of eliminating powers related to compliance auditing and attest auditing (which are a feature of the federal and many provincial AGs), but which are often excluded from the duties of MAGs.

The attest audit function is appropriate to exclude from MAG duties given that this function is currently required to be performed for all local governments by external auditors. To avoid duplication, the function should either be retained as an external audit function, or moved to a MAG function, and there does not appear to be any system advantages to moving it to a MAG function.

Similarly, there is a potential duplication if a compliance audit function were to be provided to the MAG, since the local government accountability system has several elements that provide assurance of compliance with legislated rules related to local government financial matters (e.g., third party oversight of local government borrowing, financial plan, etc), and since compliance auditing is already undertaken in relation to other local government matters (e.g., compliance with funding agreements).

In addition to considering duplication in the context of typical MAG/AG roles, other elements of the accountability system need to be reviewed in order to ensure no duplication between these roles and the proposed MAG role.

For example, while the role of the Inspector is separate and distinct from that of a MAG, there are some functions of the Inspector that, without careful thought in designing of the MAG office, could be duplicated by the MAG. The most obvious of these is the Inspector's collection and publication of financial information from all local governments on an annual basis. In order to avoid duplication, the legislation empowering a MAG should ensure that that Office's collection of financial information does not provide for broad application, but rather is audit-specific.

A broad range of potential powers/duties for a BC MAG has come forward from interested parties in response to the Ministry's consultation on this initiative. Most of these, if considered in the context of the roles of a typical AG/MAG, would not be appropriate.

The following sets out some examples of roles suggested for the BC MAG, which would not be typical of other AGs/MAGs in Canada:

- ***Reviewing municipal taxation, tax rates, municipal tax distribution policies, the relative tax burden borne by various assessment classes, or the municipal tax formula***

The policy choices made by elected officials are not typically reviewed or commented on by AGs or MAGs. Consequently, it would not be typical to have a MAG review tax rates or tax distribution policies of municipalities; nor would it be typical to review the provincial policy choices inherent in establishing the municipal taxation framework.

Assuming a BC MAG were given powers typical of other MAGs or AGs, the Office could report on such things as the economy and efficiency of administration procedures to collect the tax, whether the actual tax distribution met the tax distribution policies and objectives set out in the municipality's financial plan, or whether the taxes were properly imposed, and exemptions authorized, according to the legislative framework in place.

The Office would not, however, report or comment on the tax distribution policy itself – such as the choices that Council made with respect to the proportion of the tax burden to be borne by each assessment class, or the relative tax rates amongst these classes.

- ***Reviewing a local government choice to offer a service, the service levels of that service, or the choice not to offer a service or program***  
The range of services and programs a government chooses to offer and the service levels within those programs and services are all policy choices these governments make.

While the efficiency, effectiveness and economy of these services and programs is an appropriate audit function – and is, in essence, the core of performance auditing – a review of the policy choices inherent in whether or not to deliver the service at all or the level of service delivery are not an appropriate line of inquiry for a MAG. This is in keeping with the principle that an AG/MAG does not review the merits of government policy choices, but does consider whether the services/ programs were effective in meeting the objectives set out for them, and whether they were implemented with due regard to economy and efficiency.

- ***Requiring recommendations be implemented or imposing requirements***  
Some of the suggestions in the consultation process indicated a desire to afford the MAG the ability to require a local government to implement recommendations resulting from audits, or suggested that a MAG should or could impose requirements on all local governments (e.g., requiring consistent financial reporting methodologies in order to enhance comparability of financial information; or requiring all local governments to provide the MAG with specified financial information annually). Neither of these functions would be consistent with the role of other AGs/MAGs in Canada.

#### **4(b) Financial considerations**

Estimating the costs of a MAG Office is dependent on considerations of the scope, powers and duties of the Office. UBCM has not estimated these costs, primarily because the Province has indicated its intention to pay for the MAG Office. It will be important to recognize this cost recovery commitment in the legislation creating the Office.

The Province has not indicated its intention to pay the costs that local governments will incur in responding to the audit requests of the MAG. Consequently, it will be important to consider these costs and practical realities

related to the varying capacity of individual local governments to respond to auditor’s needs within the legislative framework, administrative and governance structures and/ or implementation plans for the Office.

**4(c) Administrative/governance and reporting structure options**

Most MAG legislation in Canada relates to a MAG for an individual local government, and the legislation does not need to refer extensively to administrative or governance structure. This is because the MAG is reporting to a single Council, so the Council is the appropriate body to make administrative decisions about the MAG within the legislated framework (e.g., approving an audit plan or deciding on an annual budget for the Office).

Administrative decisions are more challenging when a MAG is instituted with jurisdiction for multiple local governments, since there are few mechanisms in place for local governments to make decisions, such as budget approvals, collectively. Consequently, the legislation establishing the MAG Office may need a more extensive administrative or governance structural framework.

Administrative / governance structure is linked to independence in that the structure needs to strike an appropriate balance between ensuring the MAG is sufficiently independent to be able to undertake its work free from political or other interference, and ensuring that the MAG is accountable to some entity in relation to its own efficiency and effectiveness and compliance with its legislative framework.

The consultation process to date has suggested three options for an administrative / governance structure, as follows:

Description	Comments
<b>Legislative Assembly Model</b>	
Administrative structure for the Provincial AG would be used for the MAG. This structure could mean that the MAG would be accountable, either directly or indirectly, to the Legislative Assembly, and would report to the Legislative Assembly in relation to its performance. The MAG would be responsible for presenting a service plan and estimate of resources needed to a committee of the Legislative Assembly, and that committee would be responsible for approval of the estimate.	<ul style="list-style-type: none"> <li>• May represent some efficiencies and/ or economies of scale, when considered in conjunction with administrative processes of provincial AG;</li> <li>• Provides a mechanism for approved budget amounts to be included in provincial estimates;</li> <li>• Most detrimental to local autonomy, in that the accountability link is to another order of government which does not represent the interests of local government or the local government system.</li> </ul>
<b>Ministerial Model</b>	
MAG would be accountable to the Minister (presumably the Minister of Community, Sport and Cultural Development), and would likely be responsible to report to the Minister	<ul style="list-style-type: none"> <li>• High potential for conflict between the Minister’s role in relation to the MAG and a number of other roles of that Minister and Ministry (e.g., funder of local government grants; third party</li> </ul>

Description	Comments
on its performance. Provisions would also be needed in relation to development of a service or performance plan and estimates of resources needed, as well as some form of budget and/or performance plan approval.	oversight/ approval of local government bylaws; involvement in setting the legislative framework).
Stand-alone Board or Committee Model	
A separate stand alone board or committee would be the cornerstone of the administrative/ governance structure, with likely elements being MAG reporting to the board/ committee in relation to its performance, some board/ committee oversight in relation to service/ performance planning, and other administrative matters, including for example, appointment of the MAG.	<ul style="list-style-type: none"> <li>• Could be most compatible with local government autonomy, since reporting/ accountability relationship not to another order of government;</li> <li>• Success will depend on achieving the right balance between auditor independence and auditor accountability;</li> <li>• Both board/ committee composition and powers must be carefully crafted in order to achieve desired balance;</li> <li>• Represents some challenges with respect to cost recovery since it has the potential to have a performance plan approved by one entity (i.e., the board/ committee) while another entity (i.e., the province) is responsible to pay for it.</li> </ul>

While all of these options, and potentially other options, should be evaluated in the context of principles established to guide the development of the proposal, the stand-alone board or committee would appear on initial review to be the most likely to allow for both an appropriate reporting relationship for a MAG responsible for all local governments, and as a means of ensuring the auditor is independent.

In order to achieve these objectives, however, consideration must be given to the following elements:

- ***The MAG should ultimately be accountable to the public*** (just as is the Provincial AG). This would mean that while individual local governments, interest groups, or individual taxpayers or taxpayer organizations, could be afforded opportunities to make their views known to the governing body or the MAG (e.g., what audits should be undertaken), mechanisms should be in place to ensure these interests do not control or direct the work of the auditor (i.e., ensuring that the auditor independently chooses audit assignments and priorities, within the legislative framework).
- ***Legislation should set out the accountability framework for the MAG, and then allow the MAG to operate independently within that framework.*** Elements in the accountability framework could include such things as

stating the overall goals and objectives of the Office and requiring the MAG to develop an annual plan in relation to those goals/objectives that would be similar in content to the municipal performance report (i.e., set objectives for the coming year, state how the Office will meet those objectives, and report on how well the Office met its prior year objectives). The MAG would then independently develop audit plans in keeping with those objectives.

- ***The governing body should focus on technical and administrative elements in order to avoid political influence and/or stakeholder bias.*** For example, the governing body could be responsible for approving the annual plan prepared by the MAG, but would be restricted in the factors it could use in withholding that approval (i.e., the approval would be technically based in relation to such things as whether the plan complied with the legislative framework, etc). The governing body could also be responsible for appointing the MAG.
- ***The governing body should be composed of representatives from the local government system, supplemented, if needed, by performance audit expertise.*** This representation is consistent with the governance structure in place for the BC provincial AG and the federal AG, which report to the Legislature and Parliament, respectively. In BC, this is supplemented by a committee comprised of Members of the Legislative Assembly, to which the Provincial AG must deliver a service plan and an annual estimate of resources, with the committee being responsible for approval of that estimate.

Such a structure could also be designed to provide opportunities for consultation with, or input from, members of the public or other interested parties.

## 5. POLICY DEVELOPMENT PROCESS AND PRINCIPLES

While the Province has stated it is committed to implementing an Office of the MAG within BC in the near future, that implementation will benefit from careful consideration of a number of elements, including those related to the Office itself, and those related to the overall financial accountability system for local governments.

Clearly, there are a range of options and design choices available to make changes to that system, and each of these options will have its own set of advantages and disadvantages, which will need to be evaluated against the objectives of the system as a whole. One way to systematically evaluate the various options is to consider them against the backdrop of principles that have been established for the initiative.

The following principles and framework statements could therefore guide continued policy development for this initiative:

- ***Consultation between the province and local governments which promotes effective information sharing, healthy debate, and mutual understanding of respective interests is critical to a constructive governmental working***



***relationship, more effective provincial policy development, and improved implementation at the local level.***

There are many elements of the proposal that need careful consideration and a full exchange of views by both the provincial and local orders of government. Working intensively together is particularly important in this particular initiative given the provincial government's intention to introduce legislative amendments in the next Legislative session. Working together at this stage of the process is also likely to improve the economy, efficiency and effectiveness of the eventual policy product.

- ***Changes to the accountability framework should build on existing systems, avoid duplication and meet specific objectives in relation to the system as a whole.***

This principle would indicate the need to consider a MAG proposal, and specific elements of that proposal, in the context of defined outcomes or objectives that the Office is intended to work towards, as well as how it fits in with other elements of the existing accountability system. Inherent in these considerations is a determination that the MAG will fill an identified gap in the existing accountability framework and that the powers/duties of the MAG are not a duplication of existing system elements.

- ***System changes should maximize public accountability benefits while respecting local autonomy and recognizing local capacity.***

This principle would operate to consider design options in relation to whether they strike an appropriate balance between public accountability and local autonomy objectives, as well as whether their accountability benefits are reasonable given the range of capacity of local governments.

For example, the principle might be used to compare a model that provides a single MAG with jurisdiction for all local governments against a model that empowers individual local governments to establish their own MAG Office.

In addition, this principle could lead towards a legislative framework for a MAG that recognizes each local government as a separate government entity, in keeping with legislation governing local governments that recognizes each as an autonomous, responsible and accountable order of government.

- ***Legislative empowerment of a MAG should not exceed that typical of a federal or provincial AG, and the MAG legislation should specifically prohibit the MAG from considering the merits of local government program policy or objectives of local governments.***

This principle, in combination with principles related to building on existing systems and avoiding duplication, could result in a model which focuses the duties of the MAG on performance auditing and reports, including recommendations, in relation to those audits, while ensuring the MAG is not

able to consider local government policy choices in those audits, reports and recommendations.

- *Administrative and governance structures should strike a balance between ensuring the Office of the MAG is sufficiently independent to be able to undertake its work free from political or other interference, and ensuring that the Office is accountable to the governments within its audit mandate in relation to its own efficiency and effectiveness and compliance with its legislative framework.*

This principle recognizes that the MAG should ultimately be accountable to the public, and that in order to achieve this accountability, the Office must be afforded considerable independence in carrying out its duties, while remaining accountable for the efficiency and effectiveness of its operations.

Methods to ensure the independence of the Office is not compromised can, and likely should, include embedding elements of the Office's overall objectives, goals and accountabilities in the legislation which establishes the Office, and then allowing the MAG to operate independently within that framework, through limiting the role of the governing body to technical and administrative elements.

Like all other AGs/MAGs, the BC MAG should be accountable for its performance to the government bodies within its audit mandate. This can be achieved through a model under which the MAG reports to a governing body composed of representatives from the local government system.

## 6. RECOMMENDATIONS

That the membership endorse an approach whereby UBCM engage with the Province, to work towards identification of gaps in the local government financial accountability system, and implement solutions to those gaps in keeping with the principles set out in section 5 of this Policy Paper.

ON MOTION, duly moved and seconded, that the recommendation be amended, was ENDORSED.

The recommendation, as amended, then read:

*THEREFORE BE IT RESOLVED that UBCM, while disagreeing on the necessity to create an office of the Municipal Auditor General due to the fact that requirements of such an office are already met under existing local government legislation and regulations, endorse in principle the [Municipal Auditor General] policy paper and instruct the UBCM Executive to continue negotiations with the provincial government.*

ON MOTION, the recommendation, as amended, was ENDORSED.

**APPENDIX 1: BC Local Government Financial Accountability Framework**

One element of the local government accountability system that has drawn the attention of Provincial officials is that the local government system lacks mandatory performance auditing, whereas this is included in the provincial system, with the function carried out by the Auditor General. The lack of performance auditing in the local government system has been cited as a weakness of that system.

However, in order to evaluate whether or not the lack of mandated performance auditing is truly a weakness, the system needs to be evaluated as a whole to determine if it is operating efficiently and effectively. Considering one component of a complex system in isolation cannot give a complete picture of the adequacy of the checks and balances in the system.

This table summarizes the local government system and compares that system with elements of the accountability system in place for the Province of BC.

Measure	Local Government System	Comparison to Provincial System
Financial planning	5 year financial planning, including operating and capital; expenditures limited to plan	Similar financial planning requirements (i.e., Estimates); expenditures limited to plan
Provincially legislated financial limits	Cannot budget for a deficit; no long term borrowing for operating; limitations on aggregate liabilities and/or debt servicing limits	Borrowing not restricted to capital; some history of balanced budget legislation, although this can be amended or repealed by the Province at its discretion.
Audit	External auditor responsible for attest/ financial audit, and other reports required by Council/ Board or Inspector, or on auditor's initiative	AG responsible for attest/ financial audits, performance audits, some compliance auditing, and special reports as required by the Legislative Assembly, or on the AG's initiative
Transparency and openness	Most meetings open, annual financial and performance reporting, specific expenditure reporting (e.g., remuneration and contracts over specified amounts), access to information	More robust performance reporting requirements; parallel specific expenditure reporting; parallel FOI rules except for arguably broader exclusions due to exclusion relating to substance of Cabinet deliberations; similarly, while Legislative Assembly debates are open, Cabinet discussions are not, making local government decision-making arguably more open than Provincial
Public Participation	Some direct public participation mechanisms (borrowing, RD services); financial plan consultation; opportunities at annual meeting	<i>Recall and Initiative Act</i> provides opportunity for electors to initiate a legislative proposal on any matter within the jurisdiction of the Legislature
Third Party Oversight	Ombudsperson (recommendations only); Inspector of Municipalities (binding orders); Commissioner (replaces Council/ Board)	Ombudsperson (exact parallel); Auditor General (recommendations only); No equivalent of the Inspector of Municipalities or Commissioner.

While different, the two accountability systems appear to compare favourably. The Provincial system relies more heavily on performance measurement and performance auditing; but the local government system is heavily reliant on statutory limitations imposed by the Province, and Provincial oversight roles, including the Inspector of Municipalities (Inspector).

The role of the Inspector deserves some discussion with respect to its oversight powers, since those powers add considerably to the checks and balances in the overall system. Powers of the Inspector include:

- approving a range of local government bylaws (e.g., borrowing, some fees and changes such as Development Cost Charges). This approval provides a measure of assurance of compliance with applicable rules, restrictions and limitations, as well as measure of accountability;
- annually require financial information from all local governments, which is used to prepare and publish a range of local government financial statistics, including revenues, expenses, and tax rates, affording considerable centralized public access to local government financial information;
- may require a local government auditor to provide a report on any matter; and
- may hold an inquiry into any local government matter and make recommendations to Cabinet, which may result in Cabinet Order that is binding on the local government.

While the powers to require local government auditors to report to the Inspector and the Inspector's power to hold an inquiry are rarely used, they should not be discounted since they strengthen the overall framework.

## **APPENDIX II: Municipal Auditors General in Canada**

Nova Scotia has two pieces of MAG legislation: one specific to the Halifax Regional Municipality, which is in force; and the other which, if brought into force, will require a MAG for all other municipalities in the province. The latter legislative amendments were passed in 2008, but have not yet been brought into force, since discussions are ongoing about how best to implement it.

The only other MAG requirements in Canada are for municipalities with populations greater than 100,000 in Quebec, and for the City of Toronto. Ontario municipalities and the City of Winnipeg are specifically empowered to appoint a MAG, but are not required to do so. More generalized legislative authority allows Alberta and BC local governments to appoint a MAG.

In BC, while there is no specific authority for a local government to appoint a MAG, the audit provisions relating to both municipalities and regional districts allow Councils and Boards to require reports (in addition to the required financial statement reports) from their auditors. This would allow Councils/Boards to require such things as performance audits. In addition, the natural persons powers' of municipalities and broad corporate powers of regional districts should be sufficient for Councils/Boards to establish an Office of the MAG and assign duties to that Office, if they so choose.

Legislation to require a MAG for all Alberta municipalities was introduced in 2009 but not passed. Instead, other measures were instituted that the Minister stated "would meet the intent of the Bill with current resources and without the creation of a new government body". These measures are: rotating municipal corporate reviews; reviewing auditor independence; establishing an information portal to enhance public access to municipal financial information; and releasing recommendations made in audit letters.

## **APPENDIX III: Key elements of the structure and scope of Offices of Auditors General and MAG in Canada**

### **Scope**

Audited entities/funds are typically limited to:

- government departments/ministries, and agencies, corporations or organizations which are part of the applicable government's reporting entity (e.g., controlled by the government);
- funds held in trust by the government or an organization that is part of the government's reporting entity; and
- individuals or organizations either collecting money for, or receiving grants, transfers, loans, etc, from, the government or an organization that is part of the government's reporting entity (although audits for these are generally limited to compliance auditing in relation to the collection, grant etc).

### **Typical functions/duties**

Auditors General (AG) and MAGs within Canada typically undertake:

- Attest auditing: to provide an opinion on the fair representation of the government's financial statements in accordance with applicable accounting rules (although in some MAG cases this function is specifically excluded, since it is undertaken by a municipality's external auditor);
- Compliance auditing: to determine whether financial and administrative rules have been complied with;
- Performance auditing<sup>3</sup>: to determine whether money was spent with due regard for economy and efficiency and whether appropriate procedures are in place to measure and report on the effectiveness of government programs; and
- Some form of special examinations at the discretion of the AG/MAG or upon request of the governing body of the entity being audited.

In addition, some AGs/MAGs have duties/powers not listed above (e.g. some MAGs take on internal audit functions, some provincial AGs have customized review powers in areas of significance to that Province, such as government advertising or environmental stewardship).

### **Government policy exclusions**

AGs and MAGs typically do not comment on government policy. For example, the *BC Auditor General Act* states that the AG must not "...call into question the merits of program policies or objectives of the government...", a provision that is also present in some MAG bylaw provisions (e.g., Ottawa).

Information from the federal AG provides the following plain language explanation: "Performance audits do not question the merits of government

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<sup>3</sup> Some statutes refer to "Performance Auditing" whereas others refer to "Value for Money Auditing". Performance auditing includes value for money auditing, but is broader in scope than value for money. Performance auditing is concerned with three, and increasingly four, "E's": economy, efficiency, effectiveness, and most recently, environment. For simplicity, this paper refers only to performance auditing.

policies. Rather, they examine the government's management practices, controls, and reporting systems based on its own public administration policies and on best practices."

Consequently, AGs/MAGs would consider how policy is implemented, how effectiveness is measured, etc, but would not typically comment on the policy itself. For instance, an AG would not report on whether or not a program or service should be undertaken or the extent of the program or service (since that is a matter of government policy) but could report on how well the program or service was meeting the objectives that the government set out for it, and how economically and efficiently it was operated.

### **Enforcement**

AGs and MAGs are empowered to investigate, report and make recommendations. None of the legislation examined indicates that the powers of an AG or MAG extend to requiring compliance with recommendations.

### **Auditor independence and auditor accountability**

Legislation establishing the Office of an AG or MAG and setting out the framework for that Office typically provides elements relating to auditor independence, as well as auditor accountability.

AGs and MAGs typically make reports to the elected body of the government entity being audited (e.g., House of Commons, Legislative Assembly, City Council), and most are also appointed by these same entities. There is an exception to this general rule for the MAG for all municipalities in Nova Scotia, other than Halifax, which, if the legislation is brought into force, will be appointed by the Minister, after consultation with the Union of Nova Scotia Municipalities. That auditor will also provide a copy of all reports to the Minister, as must the Halifax MAG. There are also typically provisions in place for additional reporting to the Board, Commission, Ministry, etc which was the subject of the audit.

While not all of these items are present in all cases, there are several other commonly used legislative means, often used in combination, to preserve the independence of AGs/MAGs including:

- a set term of office and limited ability to reappointment;
- requiring a 2/3 vote of Council/Legislative Assembly to suspend or terminate an auditor;
- required minimum funding thresholds (e.g., MAG legislation in Quebec requires MAG budget be set at a percentage of the municipality's annual operating budget);
- independence for AG/MAG to develop annual work plan and set audit priorities;
- requirements for persons (including staff etc) to provide information requested by AG/MAG and in some cases, penalties for failure to do so; and
- establishment of an Audit Committee, with functions related to independence of the auditor (e.g., City of Winnipeg audit committee purposes include an objective "to strengthen the independence of the audit

function by providing a forum for communicating findings to elected officials and facilitating the audit function's independence from management");

- specific independence provisions (e.g., statements that auditors are independent from City staff; provisions that AG is Officer of the Legislature)

Legislation and/or administrative structures also typically provide elements related to the accountability of the AG/MAG. While not universal, the following types of things, sometimes in combination, will be present in the system:

- requirement that audits be performed to a particular standard (e.g., CICA generally accepted auditing and assurance standards);
- requirement for the auditor to develop a plan, and in many cases, for an audit committee to approve the plan;
- requirement for auditor to report out on activities in the previous year in relation to the objectives set out in the plan; and
- an audit or other form of committee (usually a committee of Council/Legislative Assembly, etc) is provided with an oversight role (e.g., Toronto's bylaw provides that the audit committee (consisting of 5 members of Council) considers the auditor general's reports and audit plan and conducts an annual review of the accomplishments of the AG).