



**Submission to the
Standing Senate Committee on
National Finance**

on

Bill C-25

The Public Service Modernization Act

by

**The Association of Professional Executives of
the Public Service of Canada**

Ottawa, September 2, 2003

1. Good afternoon. **Thank you** for this opportunity to speak to you on behalf of the Association of Professional Executives of the Public Service of Canada.
2. **APEX is the national, professional association** for federal government executives. We are dedicated to advancing leadership excellence within the public service. Our members represent a cross-section of disciplines and functions from federal departments and agencies in all regions of Canada and abroad. There are some 3,800 executives in the Public Service and about half are active members of the Association.
3. **Executives wear two hats.** They are employees, with expectations about how they will be hired, treated, compensated, developed, promoted or released. They are also leaders and managers concerned about the working environment and working conditions of their employees. They want to see more efficient human resources management systems, along with clear, straightforward policies and accountabilities.
4. My remarks to you today are based on an APEX **position paper** that is the result of five years of intensive consultation, research and analysis of public service human resource management reform. This document was shared with Minister Robillard and the Task Force on HR Modernization in November 2001 and earlier this year, with the House of Commons Standing Committee on Government Operations and Estimates. We have brought several copies with us and it is also available on the Association's Web site at www.apex.gc.ca
5. Overall, **we are very pleased with Bill C-25.** It is an elegant, well-constructed and comprehensive piece of legislation, which will help create a public service that is better able to take on the challenges of the 21st century. The Canadian Public Service lags behind many other jurisdictions in modernizing its human resources management system. **All the more reason to move forward as quickly as possible** to take advantage of this unprecedented opportunity to bring about real change in the Public Service.
6. Our positions can be summarized in **ten principles**. Let me quickly take you through them:

I. The system must be based on values.

We are pleased that the preambles to the new legislation contain statements of values, and that values are woven into the entire bill. This is an important step in the right direction and should produce a new era of values-based, human resources management.

7. **I want to take a minute to state the Association's position on the recent revelations of bureaucratic patronage and unethical behaviour on the part of a few public servants.** We take these reports very seriously. In APEX's view, any member of the executive cadre guilty of unethical behaviour must face the appropriate consequences.
8. We are aware of how badly these few cases reflect on the integrity of the vast majority of our members and the public service in general. The media of course focuses on the exceptions rather than the rule and this creates an unfortunate impression in the public's mind.

9. Our members are proud of the values they hold and actively embrace them in their daily activities. APEX has always vigorously promoted solid Public Service values and some years ago published a **statement of principles** which our members are expected to uphold. A copy of the Statement is included in the packages we have distributed. We applaud the Government's initiative to remind public servants of the appropriate values and ethics through the package being distributed today, but believe that ongoing dialogue is the best way to ensure that all levels of the public service clearly understand what constitutes ethical behaviour.
10. The events of these past months have heightened the interest in enacting **whistle-blowing legislation**. We understand the concern that has led to the calls for legislation.
11. However, APEX does not think it advisable to incorporate provisions on whistle-blowing in C-25:
- a. Protecting employees who flag breaches of ethics is an issue of vital importance which deserves to be more fully explored. As you may know, the Government has a relatively new policy on this matter. It was launched in November 2001 with a commitment to evaluate its impact after 3 years. The Public Service Integrity Officer, Dr. Ted Keyserlingk, will be tabling his first annual report in about 2 weeks. His recommendations for interim revisions to the policy should receive careful consideration.
 - b. We understand that consideration is also being given to setting up a blue-ribbon working group to determine the best course of action to deal with values and ethics issues. This group will need time to develop its recommendations. **However, the Public Service is ready to move now on the reforms contained in C-25.** Holding C-25 up until provisions on whistle-blowing are fleshed out and tested could put this legislation at risk, and the Public Service cannot afford to lose this opportunity.
 - c. Should the current policy eventually be deemed insufficient and legislation is contemplated, we believe that stand-alone legislation would have the greater impact.
12. I will now continue with our principles for a modernized human resources management regime.

II. Full responsibility for all staffing, classification, training and labour relations activities must be delegated to deputy ministers and from them to managers, along with clear accountability mechanisms.

The Public Service has not seen any real reform of its HR systems since the 1960's. "Let the manager manage" has remained an elusive goal.

The Public Service's departments and agencies have immensely diverse mandates, structures and programs. Deputy heads and their management teams are therefore better positioned than anyone else to know what skills and competencies will allow the organization to meet its current and long-

term objectives. Executives and managers must be given the tools and the responsibility to manage, plan and develop their human resources. What matters to them is that they have clear guidelines, appropriate flexibility and the tools and support to do their jobs within a clear accountability framework.

Clear accountability is a key concern. It is with this in mind that we support greater delegation, and thus greater accountability of Deputy Heads. APEX has stated that this approach must be complemented by a Public Service Commission whose mandate revolves around a strengthened audit and oversight function. The draft legislation stipulates just such a role for the Commission.

III. Protection of a modernized merit principle must be assured by a strengthened Public Service Commission.

AND

IV. Simpler, faster and more responsive recruiting, selection, promotion and termination processes must be adopted, based on competencies and values.

With the Public Service competing directly with the private and para-public sectors for highly skilled people, we can ill afford a staffing system which was designed for the labour market of thirty years ago.

Let's be clear. What executives want is to be able to hire — with as little delay as possible — someone who is fully qualified to do the work!

Executives expect to be assessed on how well they do this. **It makes sense for them to ensure the processes they use are fair, transparent and equitable.** Otherwise the choice of candidate will be appealed. The occasional misstep can be corrected with a good recourse mechanism within a clear accountability framework.

How would this work? An executive who needs to fill a position would identify the educational, knowledge and experience qualifications the position requires. Applicants would be judged against that list and the top candidates put into a “pool”. The executive would then identify any additional qualifications, such as highly developed professional skills, particular technical experience or other capacity which would complement the balance of skills in the team. This flexibility would also facilitate meeting employment equity targets. Only a modernized merit principle allows the executive the latitude to proceed in this manner.

Who can best determine the team's needs? It is the executive on the ground, working with his or her team – not a third party. The idea that greater flexibility in the selection process would mean that people are going to hire their brother-in-law is nonsensical. **SUGGESTIONS OF RAMPANT BUREAUCRATIC PATRONAGE IN THE PUBLIC SERVICE ARE EXAGGERATED, INSULTING AND MISLEADING.** We feel this legislation has more than sufficient checks and balances to ensure we identify and correct any practices that contravene the values that underpin it.

Finally, releasing an employee should be a simpler, less onerous process, based on competency and demonstration of values. The proposed legislation goes a long way to better balance the rights of employees with those of the employer. Executives think that managers might be less risk-averse in their staffing decisions if moving an employee (at any level) who does not contribute to the organization's objectives were made easier. By the same token, deputy heads should have more flexibility to use monetary incentives to terminate the employment of a poor performer, as long as it is clearly in the interests of the Public Service. The bottom line is that the human resources management system must respect those who perform well, by dealing effectively with those who do not.

V. Managers must be evaluated on how well they manage people in addition to what results they deliver.

APEX is on record as saying that executive performance pay should not only be based on whether objectives were met (as it is now), but in addition, on **how the objectives were met** and how the individual executive manages people. This is not an issue discussed in the legislation, but the framework allows us to pursue this position in the course of implementation.

VI. Mobility at all levels within the broader federal Public Service must be encouraged.

We are pleased that this legislation will allow greater mobility between the core public service (the departments and agencies reporting to the Treasury Board) and separate agencies such as the Canada Customs and Revenue Agency, which has 55,000 employees. As we mentioned earlier, in an age where we have to compete for human talent, this greater flexibility makes eminent sense.

VII. Recourse must be streamlined.

APEX believes there are sufficient recourse mechanisms, third party reviews and checks and balances in the legislation to ensure fairness in the staffing process. We support the emphasis on streamlining the recourse processes and on keeping them informal and treated to the extent possible within the department.

Let's put this in perspective and look at some real examples of staffing actions. According to the PSC's annual report for fiscal year 2001-2002: 102,557 hiring and staffing activities were performed. If you remove the hiring of casual employees and students, we are left with 70,507 staffing activities, most of which are appealable. Of these, only 2% (1,432) were in fact appealed — and of those, a mere 123 were allowed. What is often not considered is that in those 1,432 appealed cases, the people who won the competition had to wait for an average of six months to be confirmed. Are we really concentrating on the right things? Yes, there are problems, but they are not widespread and we catch them and correct them. What these figures tell us is that there must be a lot of executives out there who are doing their job properly.

VIII. There must be improved co-operation with the unions at the national and local levels, but with special emphasis on improving relationships locally.

APEX applauds the provisions in the legislation which require each DM to create a labour-management committee within his or her agency. This will result in greater dialogue between executives, managers and unions at all levels and ensure that our labour relations become more collaborative and less confrontational.

IX. All corporate human resources activities and programs should be housed in a single organization.

APEX thinks that the employer (**TBS**) should be clearly mandated to be the human resources policy and planning centre for the Public Service of Canada. This would deliver very clear accountability in public service human resources management:

- ▶ the Public Service Commission as the parliamentary agency engaged in oversight of the regime
- ▶ the Treasury Board Secretariat (the Employer) engaged in corporate policy, planning and coordinating functions
- ▶ a learning centre bringing together all training activities
- ▶ a Deputy Minister community accountable for ensuring that Public Service values and ethics policies are fully applied

X. All learning programs should be grouped into one single organization.

Just as APEX believes that one central body should co-ordinate all HR management, the same principle can be applied to the learning activities of the Public Service. We therefore applaud the important first step outlined in C-25 to amalgamate Training and Development Canada with the Canadian Centre for Management Development. We note that the legislation leaves the door open for a future integration of the language training school to this new body, once the initial amalgamation has been completed.

13. In closing, I would like to once again express APEX's support for C-25 and reiterate the sense of urgency we have about its implementation.
14. Since the 1960's, there have been any number of commissions, task forces and reports, all intended to provide the Public Service with a more modern human resources management framework. And yet, without the legislation to back up the good intentions, little has changed.
15. While we have been studying the issue, a lot of other jurisdictions have taken the initiative and successfully implemented significant reforms.
16. It is a testament to the professionalism and commitment of all our colleagues that Canada's public service continues to enjoy an enviable reputation around the world. And yet we fear that we will lose that standing if our current HR system is not reformed – it will certainly not be able to respond to the challenges of the 21st century.

17. C-25 is our best chance to create a modern Public Service for a modern world. The more quickly its provisions are in place, the better able will executives, managers and all employees be to meet the demands and expectations of Canadians for the future.
18. Thank you. I will be happy to respond to any questions that you may have.