



Legislative Assembly of Ontario

***OFFICE OF THE INTEGRITY
COMMISSIONER***

ONTARIO



***Report of the review of expense claims covering the
period June 26, 1995 to December 31, 2002,
pursuant to the Cabinet Ministers' and Opposition
Leaders' Expenses Review and Accountability Act,
2002***

***TORONTO, ONTARIO
January 31, 2003***

**REPORT
OF
THE HONOURABLE COULTER A. OSBORNE
INTEGRITY COMMISSIONER**

**RE: THE REVIEW OF EXPENSE CLAIMS SUBMITTED BETWEEN JUNE 26,
1995 AND DECEMBER 31, 2002, PURSUANT TO THE CABINET MINISTERS'
AND OPPOSITION LEADERS' EXPENSES REVIEW AND ACCOUNTABILITY
ACT, 2002**

[1] As required by the *Cabinet Ministers' and Opposition Leaders' Expenses Review and Accountability Act, 2002* (the *Act*) this is a Report of my review of expense claims submitted between June 26, 1995 and December 31, 2002¹ by:

- a) Cabinet ministers holding office as at November 28, 2002;
- b) Those persons employed in the offices of cabinet ministers noted above;
- c) Parliamentary assistants holding office as at November 28, 2002;
- d) Those persons employed in the offices of parliamentary assistants noted above;
- e) Those persons holding the office of opposition leader at any time between June 26, 1995 and December 31, 2002;
- f) Those persons employed in the office of an opposition leader between June 26, 1995 and December 31, 2002.

[2] In accordance with the *Act* I am required to review the expense claims of those persons noted above and make the expense claims and supporting documents available for public inspection on or before January 31, 2003. I am also required to report on my review of the relevant expense claims on or before January 31, 2003. This is that Report.

¹ The expense claims of cabinet ministers, parliamentary assistants and staff were put on hold as of December 10, 2002 so that this review could be completed in an orderly way. Expense claims of opposition leaders and staff were put on hold as of December 13, 2002. All of these expense claims will be included in my report on reviewable expenses to March 31, 2003.

[3] All of the expense claims and supporting documents reviewed will be available for public inspection on January 31, 2003, February 3, 2003 and February 4, 2003 (see section 14(1) and (2) of the *Act*.)

THE REVIEW PROCESS

[4] Section 15 of the *Act* directs the review of “reviewable expenses” to determine if those expenses are “allowable expenses”. Sections 2 and 3 of the *Act* set out what the reviewable expenses are:

2. (1) An expense of a Cabinet minister or person employed in his or her office is a reviewable expense under this Act,
 - (a) if the expense was incurred in the performance of a ministerial duty or function; and
 - (b) if a claim was made for payment of the expense from the Consolidated Revenue Fund.

- (2) An expense of a parliamentary assistant or a person employed in his or her office is a reviewable expense under this Act,
 - (a) if the expense incurred in the performance of a ministerial duty or function, or in the performance of a duty or function of a parliamentary assistant; and
 - (b) if a claim was made for payment of the expense from the Consolidated Revenue Fund.

3. An expense of an Opposition leader or person employed in his or her office is a reviewable expense under this Act,
 - (a) if the expense was for travel, hotels and similar accommodation, meals or hospitality; and
 - (b) if a claim was made for payment of the expense from the Legislative Assembly Fund, but not a claim for payment pertaining to the leader’s constituency work as a member of the Assembly.

[5] In short, with respect to cabinet ministers, parliamentary assistants and staff, reviewable expenses are expenses incurred in the performance of ministerial duty, the claims for which are paid out of the Consolidated Revenue Fund. In the case of opposition leaders and staff a reviewable expense is an expense for travel, hotels, meals, hospitality etc. if the claim for payment of the expense was made from the Legislative

Assembly Fund. Expenses incurred by opposition leaders as part of the leaders' constituency work as members of the Legislative Assembly are not reviewable expenses.

[6] What is an allowable expense is determined by the general principles of reasonableness and appropriateness, subject to the provisions of applicable guidelines issued from time to time by Management Board of Cabinet in the case of cabinet ministers, parliamentary assistants and staff and by the Board of Internal Economy in the case of opposition leaders and staff. It should be noted that expenses claimed by cabinet ministers, parliamentary assistants, opposition leaders and their respective staffs after December 31, 2002 are subject to the new Rules set out in an Order in Council issued on November 28, 2002 under section 5 of the *Act*.

[7] In the course of this phase of the review, I have reviewed all reviewable expenses provided by the Chair of Management Board of Cabinet for cabinet ministers, parliamentary assistants and staff under section 13 of the *Act*. I have also reviewed all reviewable expense claims provided by the Speaker for the opposition leaders and staff. No reviewable expense claims have been pulled in return for a commitment to reimburse.

[8] For the purpose of clarity, I should set out what I have not done. First, I have undertaken a review, not an audit, of reviewable expense claims. Second, with one area of exception, I have only reviewed "reviewable expenses" as defined in sections 2 and 3 of the *Act*. Thus, I have not reviewed transactions which were directly billed to a ministry or opposition party and processed by journal entry. I will have something to say about these journal entry transactions in the Recommendations section of this Report. The exception to which I referred above concerns commercial air travel by cabinet ministers, parliamentary assistants and staff during the relevant review period. Frequently, ministries were billed directly by the air carrier for the cost of air travel and the cost incurred was reflected in a journal entry. The expense claim was, however, paid out of the Consolidated Revenue Fund. These expenses are not reviewable expenses because of the *Act's* definition of a reviewable expense. These transactions do, however, involve the

expenditure of taxpayer's money. I have reviewed the commercial air travel - direct billed - ministry travel expenses. Those that I have reviewed appear to be in order.

[9] This phase of the review covers a seven and a half year period. Approximately 7,900 claims submitted for payment in the June 1995 to December 31, 2002 period by 640 persons were reviewed. Reimbursements totalling \$54,500 were made before and during the review.

[10] This review was a substantial undertaking when considered in light of the volume of transactions involved and the short time provided by the *Act* to complete the review and report on it. I make no claim to have conducted it single-handedly. A brief overview of the process followed on the review will reveal the assistance of many persons whose contributions were essential to this phase of the expense claim review.

[11] The process began by the transmission to my office of reviewable expense claims in accordance with s.13 of the *Act*. I am satisfied that all reviewable expense claims and available documents were provided. Some of the documents that we received were partially "severed" (i.e. made unreadable for *Freedom of Information and Protection of Privacy Act* purposes) before our review. This was done on the basis that the severed information was private information such as personal telephone and credit card numbers. No information essential to this review was severed.

[12] Since my office runs its normal business dealing with issues under the *Members' Integrity Act, 1994* and the *Lobbyists Registration Act, 1998* with a staff of three, and since I concluded that all (as opposed to a sampling), reviewable expense claims should be reviewed, it was apparent that outside assistance was required. Thus, KPMG was retained to provide an overview of all reviewable expense claims, the purpose of which was to identify claims that might require further information and review. That overview and the subsequent review in our office did not disclose any fraudulent transactions. It did disclose a number of reimbursements made before the review started and the need for further information with respect to a significant number of expense claims.

[13] To assist us in obtaining that further information all ministries and both opposition parties cooperated by designating a contact person to whom expense related inquiries could be directed. We had to impose on these contact persons to provide answers to questions developed as the preliminary review of expense claims wound its way to completion. The responses from ministry and opposition contact persons had to be completed and returned to our office in a 48-hour turnaround period. I very much appreciate the cooperation of those ministry and opposition party contact persons. Without that cooperation this review could not have been completed on time.

[14] All staff claims (including opposition staff expense claims) included a certification that the expense claim was incurred on ministerial, or in the case of opposition staff on opposition leaders', business. In the case of staff, all expense claims were reviewed by a supervisor before the claim was submitted for payment. I, therefore, proceeded with the review on the basis that there was an applicable presumption of legitimacy which was to be displaced only if there was some genuine reason to conclude that a particular expense claim was not reasonable and appropriate, or was contrary to the applicable guidelines.

[15] We used the following classification of expenses in determining whether reviewable expenses were allowable expenses:

- a) **Accommodations** – hotels, motels, etc.;
- b) **Air travel** – airline tickets and associated costs (e.g. travel service fees, insurance, change fees, etc.);
- c) **Hospitality** – costs identified as relating to receptions and entertaining;
- d) **Meals** – overtime meals, per diems, business meetings, etc.;
- e) **Mileage** – kilometer allowances;
- f) **Parking**;
- g) **Taxi**;

- h) **Travel** – travel costs excluding airfare (e.g. car rentals, train tickets; public transit, gasoline purchases, etc.); and
- i) **Other** – expenses not covered by one of the other categories.

[16] As responses to inquiries from this office were received, the expense claims, supporting documents and additional information provided were reviewed in my office. In the course of the review, we took into account various guidelines relating to reimbursable expenses, including:

- The Guide to Members' Allowances and Services and Members' Support and Caucus Staff, Parts IV and V, dated summer 2000;
- Extracts from Cabinet ministers' Handbooks;
- Travel Management and General Expenses, guidelines dated October 1997;
- Travel, Meal, Hospitality and Membership Fee Expenses, guidelines dated January 1994; and
- Various Ministry travel guidelines.

[17] I also considered, but did not apply, the new Rules governing Expenses of Cabinet ministers and Opposition leaders dated November 28, 2002 and effective January 1, 2003.

[18] Queries generated by the first phase of this review fell into the following general categories:

- a) **Alcohol served** – meals or hospitality events that included the purchase of alcohol (the applicable guidelines permitted the purchase of alcohol under certain restricted circumstances);
- b) **Business purpose not identified** – generally these were expenditures without sufficient explanation or documentation to support the expense claim;

- c) **Explanation required for size of expenditure** – expenditures that require an explanation due to their quantum. Examples would include mileage claims that appear high based upon the travel descriptions provided; frequent overtime meal claims, etc.;
- d) **Hotel, high phone use** – the guidelines place restrictions on the number of phone calls that are permitted when away from the office. In most instances, details of phone calls on hotel invoices had been severed. Therefore, additional information was required to determine whether or not the guidelines had been followed;
- e) **Hotel, includes personal/entertainment** – expenditures of a personal nature. Examples include in-room movies, mini-bar charges, etc.;
- f) **Incorrect amount** – instances where the amount of the expense claim differed from the supporting documentation for unknown reasons;
- g) **Insufficient documentation** – instances where the documentation supporting the claim was not present or was not sufficient to determine whether the guidelines had been followed;
- h) **Invalid expense report** – invoices that appear to have been submitted for payment, but were not associated with an individual’s expense report;
- i) **Meals, attendees not identified** – typically these involved missing descriptions for meal attendees;
- j) **Meals, details of purchases not provided** – meal expense claims that did not include reasonable information about the items purchased;
- k) **Personal expenses** – expenditures that appeared to be of a personal nature; and
- l) **Air Travel** – business class airline tickets for flights of a duration less than five hours.

[19] Many reimbursements were generated before the review process as a result of internal ministry reviews of expense claims. In addition the various queries we made to ministry contact persons generated further reimbursements. At the end of the day,

reimbursements made as part of this review flowed from questions raised and submitted to expense claimants. When it was suggested to expense claimants that information provided (or not provided) did not support the claim and that reimbursement ought to be considered, a reimbursement invariably followed. Reimbursements totalling \$54,500 were made. I am grateful to all concerned for their cooperation in this regard. I should add that there were reimbursements which were made before and during this review which I would not have ordered. It appears to me that those subject to this review generally acted out of an abundance of caution in determining whether or not a paid reviewable expense claim should be reimbursed.

[20] There were several expense claims, mostly involving relatively small amounts, submitted by staff who are no longer working for the government and who could not be located. In the relatively few cases when there was reason to question claims of those persons, I did not think it made sense to spend far more than the reviewable expense claim itself to trace the former employee who had submitted the claim. I believe most would accept that that expenditure of taxpayer's money makes no sense. There were no reviewable expense claims submitted by a staff member who could not be located which involved substantial sums.

[21] We queried a number of expense claims not because the claims appeared to be unreasonable, but rather because the supporting documents (invoices, credit card receipts etc.) could not be read. In some cases that problem had to remain unresolved since repeated photocopying and the passage of time made it impossible to determine the details of some transactions. There were other reviewable expense claims where receipts had been lost. This is not surprising to me since the review period extended over a seven and a half year period. In any case, where supporting documents could not be easily read or where receipts had been lost, we did the best we could to re-construct the transaction giving rise to the expense claim to determine whether the claim was reasonable and appropriate.

[22] In a few instances, expenses reviewed were found to be reasonable and appropriate but it was apparent that the expense should have been charged to another budget account. For example, a reasonable expense claim for office supplies should be charged to an operating – office budget account, not to a travel, hotels, accommodation budget account. However, we did not seek a reimbursement if the claim was otherwise reasonable and appropriate. This appeared to me to be sensible since in the end payment came from the Consolidated Revenue Fund, or in the case of the opposition parties, from the Legislative Assembly Fund. That is to say, although the book-keeping could be made tidier, the bottom line would remain the same.

[23] In the course of this review, I reviewed the expenses of thirteen persons who are not subject to the *Act*. These persons submitted seventy-seven expense claims. Since the expense claimants are not subject to the *Act*, their expenses are not “reviewable expenses”. For that reason they are not included in the expenses required to be made available for inspection under section 14(1) of the *Act*.

[24] In dealing with expense claims involving meals and meetings with third parties, we frequently had to seek information about the purpose of the meeting, the number in attendance, and who the third parties at the meeting were. Many were reluctant to disclose the identity of third parties at a particular meeting. Third party privacy interests were invoked and there was a frequently expressed concern about the disclosure of the identity of non ministry or opposition party meeting attendees. I am sympathetic to what appears to be a generally held concern. In the Recommendation section of this Report, I will refer to the need to develop a system for the on-going review mandated by the *Act* so that third party privacy interests and confidentiality can be respected, but information as to the identity of meeting attendees can be made available to my office, only for the purpose of the ongoing expense claim review mandated by the *Act*.

[25] I should note that in many instances, the documentation supporting expense claims, although insufficient by present standards (as established by the Rules now in force), did meet the standards of the day. For example, credit card receipts were (but no

longer are) sufficient to support many expense claims. It seems to me that the sufficiency of supporting documentation has to be judged by the standards in place when the expense claim was submitted, not by standards later put in place.

[26] I should also add that almost all alcohol-related ministry expense claims have been reimbursed, I assume on the basis that applicable guidelines prohibited any reimbursement for alcohol expenses in most cases. In my view, these earlier guidelines were unduly restrictive in that they ignored contemporary reality. However, since reimbursements have been made, I will make no further comment on that subject.

RECOMMENDATIONS

[27] Having had the benefit of the experience of this review, I make the following recommendations. Some are in part redundant because of the greater clarity of the new Rules relevant to expense claims:

1. Expense claims should invariably set out of the business purpose of the expenditure incurred (i.e. reference to an event, meeting etc.);
2. Expense claims for meals should include details of the persons in attendance and reasonable information of the items paid for. I recognize that there will be some instances where for privacy and confidentiality reasons it may not be appropriate to include information with respect to the persons in attendance as part of the expense claim. In such instances the expense claimant should at the very least maintain a record of those in attendance. I hope to meet with the Speaker and the Chair of Management Board in the near future to establish an arrangement under which my office can be informed about the attendees at meetings involving third parties;
3. Taxi chits should include To/From information;
4. Mileage claims should include information about the particular locations traveled to and, of course, the business purpose of the trip;
5. Where practicable original receipts should be made part of expense claims, in addition to credit card slips or credit card statements. This

will avoid the relatively few instances where an expense claim was made twice, once on the basis of a credit card slip and again on the basis of the original receipt.

6. To facilitate ongoing reviews of reviewable expenses all ministries should record, process and retain expense claims in the same way. Reviewable expense claims should be made available to my office at regular pre determined intervals. I will discuss those systemic issues with the Speaker and the Chair of Management Board shortly.

[28] This phase of the review has been completed. Subject to the limitations referred to in this Report, I am satisfied that the expenses which I have reviewed, net of reimbursements made, are allowable expenses (see section 15 of the *Act*).

DATED at Toronto, this 31st day of January, 2003.

The Honourable Coulter A. Osborne