

[Tender raises spectre of Justice Department outsourcing](#)

Union worried as federal government calls for evaluation of litigation branch

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OTTAWA — The federal Justice Department has commissioned an evaluation of its litigation branch, a process that will include looking at whether it makes more sense to have legal work done by federal government lawyers or to outsource it to private law firms.

According to documents accompanying the call for tenders, the Justice Department is undertaking a wide-ranging assessment of one of its key sections as it looks at everything from whether there “is a continued need for litigation branch legal services” to whether the work of the litigation branch could “be undertaken/conducted more efficiently and economically.”

The Justice Department says the evaluation is just one of several it’s conducting following Treasury Board policy.

However, the union that represents federal Justice Department lawyers has concerns.

Lisa Blais, president of the Association of Justice Counsel that represents 2,700 federal lawyers, says the government hasn’t consulted her union about the evaluation. While she doesn’t oppose evaluating programs, Blais says the association is watching closely.



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“We know the approach this government has taken to the public service, so we are wondering on one hand whether this is business as usual or will they be using these reports as justification for any kind of radical change on how legal services are delivered?”

The concerns centre on a call for tenders issued on June 26 that seeks a firm to evaluate the Justice Department’s litigation branch. The government has awarded the \$160,736 contract to

Prairie Research Associates Inc., a professional research firm.

The final evaluation report is due in a year.

The litigation branch provides legal services to federal government departments as well as the justice minister; co-ordinates litigation that involves several government departments; acts as Canada's "central authority for extradition and mutual legal assistance in criminal matters;" and manages the outsourcing of legal work to the private sector.

In 2010-11, the litigation branch spent \$24.5 million and recovered \$17.9 million from government departments. It employs 225 people, including 100 lawyers and 50 paralegals.

Like many of the evaluations the department has conducted, the tender documents call for a wide-ranging look at the section and its services. However, the litigation branch tender contains questions not found in all of the evaluation outlines, in particular whether the government should outsource some of the section's work.

Among the issues to consider is "outsourcing, where feasible, of particular files or tasks within files (e.g. document management)." The evaluation grid also calls for an assessment of "alternative approaches to service delivery" and a "comparison of billing rates with private bar."

To do that, the department calls for a "comparison of rates (iCase data with private bar rates from *Canadian Lawyer* survey and/or queries with large- and mid-size law firms about rates for litigators based on years of experience)."

Justice department spokeswoman Carole Saindon said the questions about outsourcing are just one of many issues the evaluation will examine.

"Assessing the economy and efficiency of programs and services is a standard line of enquiry for all evaluations," she said.

"This is simply one of many indicators to be used in reviewing the economy and efficiency of the department's litigation function."

However, Blais worries there may be plans to replace federal Justice Department lawyers by outsourcing work.

"We know that in budget 2013 that [Finance] Minister [Jim] Flaherty talked very broadly about doing government differently and looking at all possible options for the delivery of government services. I looked at that and I shudder and I worry for Canadians and for the quality of services they'll receive but I have no direct knowledge of that in this context."

Blais says federal government lawyers are already suffering from government belt tightening. Of 98 federal lawyers advised they might lose their jobs, the government has since declared 49 of them to be surplus. In June, the Justice Department put out a call for 30 lawyers in the tax services division to voluntarily leave the government.

Another 17 lawyers in the business and regulatory advisory section in British Columbia learned in June that their jobs were in jeopardy.

“That’s quite a hit for that group,” says Blais.

“That’s a very specialized area. Those individuals work in the area of environmental law, regulatory law, protecting the environment, protecting the fisheries, the coastline, that kind of work.”