



CANADA

**REPORT ON THE OPERATIONS OF THE
PARLIAMENTARY BUDGET OFFICER WITHIN THE
LIBRARY OF PARLIAMENT**

**Report of the Standing Joint Committee on
the Library of Parliament**

**Hon. Sharon Carstairs, Senator
Peter Goldring, M.P.**

Joint Chairs

June 2009

40th PARLIAMENT, 2nd SESSION

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THE STANDING JOINT COMMITTEE ON THE LIBRARY OF PARLIAMIENT

has the honour to present its

THIRD REPORT

In accordance with the First Report of the Committee adopted by the Senate on Wednesday, March 11, 2009, Standing Order 108(4)(a) of the *Standing Orders of the House of Commons*, and the motion adopted by the Subcommittee on Agenda and Procedure of the Standing Joint Committee on the Library of Parliament on Tuesday, March 24, 2009, the Committee has studied the operations of the Parliamentary Budget Officer within the Library of Parliament. The findings and recommendations of the Committee are outlined in this report.

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REPORT ON THE OPERATIONS OF THE PARLIAMENTARY BUDGET OFFICER WITHIN THE LIBRARY OF PARLIAMENT

Introduction

On February 25, 2009, the Speakers of the Senate and the House of Commons wrote to the Co-chairs of the Standing Joint Committee on the Library of Parliament (the Committee) to convey a request from William Young, Parliamentary Librarian, in which he suggested that the Joint Committee "undertake a review of the issues that have arisen with regard to the implementation of services of the Parliamentary Budget Officer..." According to the Parliamentary Librarian, the review had become necessary because of the questions raised about the role of the Parliamentary Budget Officer (PBO) and his status within the Library of Parliament. Clearly, the establishment of the position of a PBO was not as simple as originally hoped or anticipated.

For his part, the PBO suggested in a letter to Committee members that they hear from witnesses on the issues of governance, operating model, capacity and funding for his office. It was essential, according to the PBO, that parliamentarians hear evidence that reflected a view that was consistent with the principles of accountability and transparency, in the spirit of the enabling legislation.

On March 24, 2009, the Committee's Subcommittee on Agenda and Procedure (the Subcommittee) decided to look into the broad context of the establishment of the position of the PBO before undertaking, if necessary, a more detailed study of the issue. After approving the recommendation of its Subcommittee, the Committee met with most of those involved in the establishment and implementation of the PBO position. The Committee is now able to make recommendations concerning the various issues discussed during its hearings.

The Library of Parliament was established officially in 1871 by the *Library of Parliament Act*, which was subsequently entrenched in the *Parliament of Canada Act* (the Act). The Library's mission is to "contribute to Canadian parliamentary democracy by creating, managing and delivering authoritative, reliable and relevant information and knowledge for Parliament".¹ The Act provides that the Speakers of the Senate and the

¹ Library of Parliament, *Plans and Priorities - 2009-2010*, Ottawa, 2009, p.1.

House of Commons are responsible for the Library and its employees.² The Act further provides that the Speakers are assisted in performing this duty by a joint committee appointed by the two Houses and whose membership comprises Senators and MPs.

The Standing Joint Committee on the Library of Parliament is therefore established pursuant to the *Parliament of Canada Act*. Because it is a joint committee, it receives its mandate and powers from both Houses. The rules and standing orders of both Houses may define the mandate and powers assigned to the Committee. The *Rules of the Senate of Canada* do not describe this Committee's mandate specifically. However, the *Standing Orders of the House of Commons* state that the Committee's mandate "shall include the review of the effectiveness, management and operation of the Library of Parliament".³ The Committee has the mandate to review the appointment of the Parliamentary Librarian. Both Houses may also refer any other matter to the joint committee.

The Act also provides that the Speakers, assisted by the joint committee, may subject to the approval of the two Houses make such orders and regulations for the government of the Library, and for the proper expenditure of moneys voted by Parliament for the purchase of books, maps or other articles to be deposited therein. The Committee is therefore authorized to recommend that the Speakers of both Houses adopt rules and regulations regarding the management of the Library and the best way to use the funds it receives from Parliament.

Given the hierarchical structure set out in the Act and described above, the Committee's recommendations will be made directly to the Speakers of the Senate and the House of Commons.

We think this report must deal with three main themes: governance and independence; the current approach taken by the PBO to providing services to clients and outside communications; and the budget allocated to the PBO for the current fiscal year. On these three issues, the Committee has heard from the Parliamentary Librarian, the PBO and third parties, including the Auditor General of Canada, former parliamentarians, representatives from the Privy Council and from Treasury Board, and from individuals involved in the establishment of the position of PBO within the Library of Parliament. The Committee has also had access to varied and abundant documentation.

2 *Parliament of Canada Act*, R.S., 1985, c. P-1, s. 74(1), "The direction and control of the Library of Parliament and the officers, clerks and servants connected therewith is vested in the Speaker of the Senate and the Speaker of the House of Commons assisted, during each session, by a joint committee to be appointed by the two Houses." *Ibid.*, s. 74(2), "The Speakers of the two Houses of Parliament, assisted by the joint committee referred to in subsection (1), may, subject to the approval of the two Houses, make such orders and regulations for the government of the Library, and for the proper expenditure of moneys voted by Parliament for the purchase of books, maps or other articles to be deposited therein, as appear to them appropriate."

3 *Standing Orders of the House of Commons*, Standing Order 108(4)a).

The Committee believes that urgent action must be taken. The current situation is unsettling both for the employees of the PBO and for the staff and management of the Library of Parliament.

Chronology of the establishment of the position of Parliamentary Budget Officer and interpretation of the Act

The Federal Accountability Act

On April 11, 2006, the government tabled a bill on federal accountability. This was an omnibus bill that contained a number of amendments to existing legislation as well as new legislative provisions that concerned, for instance, conflict of interest, lobbying, the establishment of the position of Director of Public Prosecutions and the establishment of the position of PBO.

For the past few years, the annual budget forecasts have been regularly contradicted by enormous unexpected surpluses at the end of the fiscal year. Until the position of PBO was established, there was no specialized support in this area for parliamentarians. Analysts from the Library of Parliament do provide some services in connection with public finances, such as pre-budget consultations and other studies by the House of Commons Standing Committee on Finance. Library researchers also draft research reports and analyses on the basis of public information. These papers are provided to committees, as well as to parliamentarians on an individual basis.

It was the government's intention to fill this gap. More specifically, in the *Federal Accountability Action Plan*, the government stated that it would:

... ensure truth in budgeting with a Parliamentary Budget Authority by creating the position of Parliamentary Budget Officer to provide objective analysis to Members of Parliament and parliamentary committees concerning the state of the nation's finances, trends in the national economy, and the financial cost of proposals under consideration by either House.⁴

The position was established through the addition of sections 79.1 through 79.5 to the *Parliament of Canada Act*. These provisions are examined in the next part of this report.

4 Government of Canada, *Federal Accountability Action Plan, Highlights*, <http://www.faa-lfi.gc.ca/docs/ap-pa/ap-pa00-eng.asp> (accessed May 22, 2009).

The bill was considered by the Legislative Committee of the House of Commons on Bill C-2 and then by the Senate Standing Committee on Legal and Constitutional Affairs. The bill received Royal Assent on December 12, 2006. The provisions concerning the PBO came into force on the day of Royal Assent.

Steps leading to the establishment of the position of Parliamentary Budget Officer within the Library

In October 2006, the Library of Parliament hired Allan Darling, a retired senior public servant, to oversee the establishment of the new position of PBO within the Library of Parliament. The first incumbent of the position, Kevin Page, took office in March 2008. The process took 18 months.

In December 2006, the Library developed an accountability profile for the position of PBO, which contains relevant information about the mandate of the PBO, the hierarchical relationship between the incumbent of the position of PBO and the Parliamentary Librarian, the scope of the specific accountabilities of the PBO, as well as details about the position's working environment and conditions. The profile was approved by the Privy Council Office and was distributed to the applicants for the position of PBO.

In January 2007, the Parliamentary Librarian met with a group of former parliamentarians to ask for counsel with regard to the best way for the PBO to serve Parliament. Following this meeting, the group prepared a brief account of their discussions. They dealt with five specific issues regarding the establishment of this new position within the Library of Parliament:⁵

- What sort of profile should the PBO have?
- How should the PBO assist parliamentarians in reviewing estimates?
- How should potential demands for cost estimates be handled?
- What competencies and experience should the PBO have?
- What pitfalls should we avoid as we plan to implement the PBO function?

5 Library of Parliament, *Parliamentary Budget Officer, Background*, tabled with the Committee, tab 2.

In December 2007, following the recruitment process, the Parliamentary Librarian sent a letter to the Leader of the Government in the House of Commons recommending the appointment of Kevin Page to the position of PBO.

Legislative framework for the position of Parliamentary Budget Officer

The following paragraphs give a brief explanation of the various provisions in the *Parliament of Canada Act* relating to the position, the mandate and the powers of the PBO.

The position of PBO (section 79.1)

First, subsection 79.1(1) establishes the position of PBO, and states explicitly that the holder of the position is an officer of the Library of Parliament. Second, subsection 79.1(2) provides that the Governor in Council appoints the PBO to hold office for a renewable term of not more than five years. Third, subsection 79.1(3) states that the Governor in Council may select the PBO from a list of three names submitted by a committee chaired by the Parliamentary Librarian. Finally, subsection 79.1(4) provides that the PBO shall be paid the remuneration and expenses set by the Governor in Council.

The mandate of the PBO (section 79.2)

Section 79.2 assigns four duties to the PBO. First, paragraph 79.2(a) states that the PBO provides analysis to the Senate and to the House of Commons about the state of the nation's finances and trends in the national economy.

Second, paragraph 79.2(b) provides that the PBO will undertake research into the nation's finances and economy when requested to do so by any of the listed committees.⁶

Third, under paragraph 79.2(c), when requested to do so by any parliamentary committee with the mandate to consider the government's estimates, the PBO has the mandate to conduct research into those estimates.

Finally, under paragraph 79.2(d), when requested to do so by a member of either House or by a committee of the Senate or of the House of Commons, or a committee of both

⁶ The Standing Committee on National Finance of the Senate, the Standing Committee on Finance of the House of Commons, the Standing Committee on Public Accounts of the House of Commons, or their equivalent.

Houses, the PBO estimates the financial cost of any proposal that relates to a matter over which Parliament has jurisdiction.

The administrative powers of the PBO (sections 79.3 to 79.5)

Section 79.3 of the *Parliament of Canada Act* entitles the PBO to obtain, from federal government departments the economic and financial information he needs, at the exception of information that is restricted under the *Access to Information Act* or contained in a confidential Cabinet paper. Section 79.4 states that the information obtained in this manner must remain confidential.

Section 79.5 authorizes the PBO to enter into contracts and engage, on a temporary basis, the services of those with technical or specialized knowledge that he believes he needs. This section also states that the use of this power is subject to the authority of the Speaker of the Senate, the Speaker of the House of Commons and the Parliamentary Librarian, as set out in sections 74 and 75(2) of the Act.

Independence and governance

The Library's governance structure

As stated previously, subsection 74(1) of the *Parliament of Canada Act* stipulates that the direction and control of the Library of Parliament and the officers, clerks and servants connected with it is vested in the Speaker of the Senate and the Speaker of the House of Commons. The Standing Joint Committee on the Library of Parliament assists the Speakers in carrying out this mandate.

The Parliamentary Librarian has the rank of a deputy head of a federal department. He is responsible for managing the Library and its employees, under the direction and control of the Speakers of both Houses.⁷ As for the hierarchical relationship between the Parliamentary Librarian and the PBO, the Act states that the latter is an officer of the Library of Parliament.⁸

7 *Parliament of Canada Act*, R.S., 1985, c. P-1, s. 75(2).

8 *Ibid.*, s. 79.1(1).

Understanding the concept of “independence”

Kevin Page, the PBO, feels that he is functionally independent and that this independence is under constant threat.⁹ Appearing before the Committee on May 14, 2009, Mr. Page stated:

The Parliamentary Budget Officer to be effective to serve Parliament and Canadians must be subservient to Parliament, but independent in the provision of analysis so that it can carry out its legislative responsibilities free from political and bureaucratic interference.¹⁰

In his operational plan, the PBO refers to the “Office of the Parliamentary Budget Officer” rather than to the position of Parliamentary Budget Officer, even though the Act makes no mention of such an office.

Mr. Page bases his interpretation of the question of independence on a press release from the government House Leader issued at the time of his appointment. This press release stated that “the Parliamentary Budget Officer is an independent officer of the Library of Parliament who reports to the Speakers of both chambers”.¹¹

The Parliamentary Librarian believes that the relevant provisions of the *Parliament of Canada Act* clearly set out the reporting relationship with the PBO:

A plain reading of the relevant statutory provisions within the *Parliament of Canada Act* shows that the PBO is an officer of the library and is subject to the control and management of the librarian and not a stand-alone office. Of course, it is always open to lawmakers to reconsider this role or the status of the PBO, to rethink his responsibilities, and, in light of this thought, to amend the *Parliament of Canada Act*.¹²

This interpretation of the Act was confirmed by Roberta Santi of the Privy Council Office, the central government agency that coordinated the *Federal Accountability Act* in 2006:

9 Kevin Page, *Remarks by the Parliamentary Budget Officer (PBO) to the Standing Joint Committee on the Library of Parliament*, May 14, 2009, p. 1.

10 *Ibid.*, p. 2.

11 Government du Canada, “Government House Leader Announces The Appointment Of Canada’s First Parliamentary Budget Officer” Press Release, March 14, 2008.

12 William Young, *Evidence*, March 12, 2009.

[...] the *Federal Accountability Act* amended the *Parliament of Canada Act* to create the position of Parliamentary Budget Officer, not a parliamentary budget office.¹³

Ms. Santi went on to state as follows:

The way the legislation is constructed, the officer is within the parliamentary institution and the reporting structure of Parliament, and is therefore not independent or outside of Parliament as an agent of Parliament. I think that's fair from the legislation.¹⁴

This interpretation of the Act is shared by Allan Darling, a retired senior government official, who was hired as a consultant to assist the Library in establishing the position of PBO:

With respect to the issue of the accountability framework, the act in section 79.1 states that the Parliamentary Budget Officer is "an officer of the Library of Parliament". The position created is that of an officer, not of an office.¹⁵

The Committee wishes to point out that, according to documentation provided by the Library of Parliament, this accountability framework was explained clearly to candidates applying for the position of PBO. As part of the hiring process, the firm Ray & Berndtson prepared an executive summary regarding the position. On page 5 of the summary, it is specified that the position of PBO reports directly to the Parliamentary Librarian and is part of the Library's senior management group.¹⁶ Kevin Page therefore accepted the position in full knowledge of this fact.

The Parliamentary Librarian told the Committee about the difficulties arising from the difference in interpretation of the accountability framework. Specifically, the Parliamentary Librarian stated that the PBO did not want to attend the Library's management meetings or budget meetings.¹⁷ Moreover, the Librarian stated that the PBO does not give him any information concerning the number of requests received from parliamentarians and committees.¹⁸ The Parliamentary Librarian reminded the Committee of the need to resolve this issue:

The whole issue of the reporting relationship is something that needs to be clarified. In terms of being responsible, as someone with the status of a deputy minister, dealing

13 Roberta Santi, *Evidence*, April 23, 2009.

14 Ibid.

15 Allan Darling, *Evidence*, March 26, 2009.

16 Library of Parliament, Parliamentary Budget Officer, Background, tabled with the Committee.

17 William Young, *Evidence*, March 12, 2009; May 7, 2009.

18 William Young, *Evidence*, May 7, 2009.

with an individual who refuses to participate in processes that I believe he should participate in is something that has caused tremendous trouble within the library.¹⁹

The Parliamentary Librarian made the following suggestion to address the situation:

I would respectfully ask that this committee consider recommending to the Speaker[s] that the PBO be informed that his position is subject to the statutory accountability regime created in the *Parliament of Canada Act*, which confirms the authority of the Parliamentary Librarian to control and manage the library. I believe this would go a long way to addressing the issues of the PBO's legislative status and the reporting responsibilities of his position.²⁰

The Committee feels that the situation is unacceptable and does not in any way serve the interests of parliamentarians.

Therefore, the Committee recommends:

Recommendation 1

That the Speakers of the Senate and the House of Commons direct the Parliamentary Budget Officer to respect the provisions of the Act establishing his position within the Library of Parliament. The Parliamentary Budget Officer reports to the Parliamentary Librarian and, as a senior official of the Library, it is his responsibility to participate fully in management activities and to work closely with the Library's other service areas.

The only reference to "independence" in relation to the position of PBO is found in paragraph 79.2(a) of the *Parliament of Canada Act*. This paragraph establishes one of the PBO's four legislated duties, which is to provide analysis of the nation's finances, the estimates of the government and trends in the national economy.

Paragraph 79.2(a) of the Act states that the PBO's analyses are independent, but the Committee feels that this does not in any way indicate that his position is independent, like that of an Officer of Parliament. Moreover, during his appearance before the Committee, the PBO himself acknowledged that there is nothing in the current Act to indicate that the position and not the analysis is independent.²¹

19 William Young, *Evidence*, May 14, 2009.

20 Ibid.

21 Kevin Page, *Evidence*, May 14, 2009.

According to Mr. Young, “the ‘independence’ of the officer should be understood in terms of his independence from the government”.²² This independence is in no way threatened since there is absolutely no doubt that the Library of Parliament is independent from the government. Witnesses appearing before the Committee fully supported Mr. Young’s position.

Joe Wild, Executive Director of Strategic Policy with the Treasury Board Secretariat, informed the Committee that “the PBO and the Library of Parliament as a whole are fully independent from the Government in their operation and funding”.²³

Sheila Fraser, Auditor General of Canada, supported this position:

The act clearly states that the Parliamentary Budget Officer provides research and support to committees and individual members of the House or the Senate. Therefore, it is entirely appropriate for the Parliamentary Budget Officer to be located within the Library of Parliament and not within my office.

Related to this is the question of independence. Like us, in order to be credible, the PBO must be independent of government. Clearly, the Library is independent from government. Consequently, the current arrangement with the PBO residing within the Library also protects the independence of the PBO.²⁴

Roberta Santi of the Privy Council Office also confirmed that the Library and the PBO are completely independent from the executive:

The direction and management of the Library of Parliament, including the Parliamentary Budget Officer, are wholly independent of the executive. They rest with the Parliamentary Librarian, who reports to the Speakers of the House and Senate. Hence the executive has no role in determining how the library, including the Parliamentary Budget Officer, operates or discharges its mandate.²⁵

This is in line with the findings of the group of former parliamentarians who advised the Parliamentary Librarian. In the document summarizing their discussions on implementing the position of PBO within the Library of Parliament, they stated that “[...] the PBO should

22 William Young, *Speaking remarks by the Parliamentary Librarian, William R. Young before the Standing Joint Committee on the Library of Parliament*, May 14, 2009, p. 2.

23 Joe Wild, *Evidence*, March 26, 2009.

24 Sheila Fraser, *Evidence*, April 23, 2009.

25 Roberta Santi, *Evidence*, April 23, 2009.

work and be seen to fit within the Library's established tradition of service to Parliament and parliamentarians".²⁶

Former Member of Parliament Patrick Boyer testified in the same vein:

The decision by Parliament to place the Parliamentary Budget Officer within the parliamentary library under the terms of the Federal Accountability Act confirms that this function was intended to be consistent with other services provided, such as by the research branch, in supporting the work of parliamentarians. This positioning in the parliamentary library also meant that the Parliamentary Budget Officer would be close at hand to work with parliamentarians, and because the Library of Parliament is institutionally and administratively independent from the government, it meant that the Parliamentary Budget Officer automatically had independence from government.²⁷

At the present time, the Committee accepts that the position of PBO within the Library of Parliament is sufficiently independent from the government to enable the incumbent to carry out his legislated mandate. Furthermore, the Committee believes that the PBO's services are a natural extension of the services already provided by the Library of Parliament to parliamentarians and parliamentary committees.

The events leading up to this study clearly show that positions such as the PBO need to be submitted to a parliamentary committee for consideration. In this report, the Committee makes several recommendations to the Speakers of the Senate and the House of Commons that will have a major impact on the way in which the PBO carries out his duties. The Committee therefore hopes to follow up on this report and review this position regularly to ensure that the PBO is delivering the services that parliamentarians and committees are entitled to receive.

Therefore, the Committee recommends:

Recommendation 2

That the Speakers of the Senate and the House of Commons request the Standing Joint Committee on the Library of Parliament to evaluate the effectiveness of the position of the Parliamentary Budget Officer commencing on the third anniversary of his appointment.

26 Library of Parliament, *Parliamentary Budget Officer, Background*, tabled with the Committee, tab 2, page 4.

27 Patrick Boyer, *Evidence*, 2 April 2009.

Approach to client services and external communications

As mentioned above, the Act sets out the four basic duties of the PBO's mandate. The first duty is proactive, whereas the other three are carried out in response to specific requests.

With regard to the second, third and fourth duties, the PBO responds to requests from parliamentarians and committees. In these instances, the PBO works primarily for parliamentarians, and they have ultimate control over publication of the work produced at their request. In the case of the other reports, the PBO acts under the direction and control of the Parliamentary Librarian, and clear protocols should be established between the Library of Parliament and the PBO regarding media relations and the publication of these reports. The Speakers of the Senate and the House of Commons have the authority to instruct the PBO in these matters.

Shortly after taking office in March 2008, the PBO undertook consultations to better define various aspects of his position including his mandate and mission, and his operational model. This consultation process included not only Senators and MPs, but also current or retired senior officials, focus groups, academics and organizations comparable to the PBO in other jurisdictions.

The Committee does not know whether and under what circumstances the Speakers of the Senate and the House of Commons were consulted on these matters. According to Allan Darling, however, the PBO job description, which was provided to candidates for the PBO position, includes the responsibility for "the creation, in consultation with the Speakers of the Senate and House of Commons and the [Parliamentary Librarian], of criteria and guidelines to manage requests for expert analysis or cost estimates from the clientele."²⁸

The Joint Committee contributed to the consultation process initially by hearing testimony from Mr. Page, on April 10, 2008. Mr. Page told the Committee: "It is important that the members of the Joint Committee be comfortable with me as their Parliamentary Budget Officer. Trust must be accompanied by professional, unbiased and competent advice for me to be an effective servant of Parliament".²⁹ He went on to say that:

This is my first opportunity to work as an independent officer of the Library of Parliament, and I'm a little bit intimidated. I have lots to learn about how Parliament works, and I'm looking forward to serving and working with you in this new capacity.³⁰

28 Allan Darling, *Evidence*, March 26, 2009.

29 Kevin Page, *Evidence*, April 10, 2009.

30 William Young, *Evidence*, May 14, 2009.

In response to this wish stated by the PBO, the Committee recommends:

Recommendation 3

That the Speakers of the Senate and the House of Commons ask the Parliamentary Budget Officer to provide them with an action plan describing how he intends to carry out all of the duties mandated under the Act, and that this plan be submitted for review by the Joint Committee of the Library of Parliament.

The Library of Parliament has a large and varied clientele. It serves not only parliamentarians and parliamentary committees, but also the Governor General, parliamentary associations, officers of the Senate and the House of Commons, organizations reporting to Parliament, parliamentary staff other than officers, the Press Gallery, Privy Council, the Supreme Court of Canada and finally all Canadians.³¹ The mandate of the PBO provides that he specifically serves parliamentarians and parliamentary committees. It is these clients that the PBO and the Library of Parliament, and specifically its Parliamentary Information and Research Service, have in common.

In the opinion of the Committee, in order to facilitate the establishment of the PBO within the Library of Parliament and maximize economies of scale and the pooling of expertise, these two services that serve parliamentarians and parliamentary committees must harmonize their services.

The Committee thus recommends:

Recommendation 4

That the Speakers of the Senate and the House of Commons ask the Parliamentary Information and Research Service of the Library of Parliament and the Parliamentary Budget Officer to standardize their service agreements with the parliamentarians and committees.

The analysts of the Library of Parliament's Parliamentary Information and Research Service and professionals reporting to the PBO often have expertise that is shared or complementary. In our opinion and in that of various witnesses, their expertise is entirely relevant to two aspects of the PBO's mandate: the review of government estimates and

31 Library of Parliament (2009), p.4.

the evaluation of the financial cost of any proposed measure that is under Parliament's jurisdiction.

The Parliamentary Librarian told us precisely this:

I've observed that things such as costing requests that might come in have both a policy and a financial component. Quite frankly, we have a group of economists who are very good policy analysts. The kind of work they could do together in analyzing the policy implications of a costing request and then doing the costing request demonstrates to me a way of working together that would ultimately provide members of Parliament and senators with a much more complete and appropriate answer to some of their questions and queries.³²

Therefore, the Committee recommends:

Recommendation 5

That the Speakers of the Senate and the House of Commons direct the Parliamentary Information and Research Service of the Library of Parliament and the Parliamentary Budget Officer to collaborate and coordinate their activities regarding the review of government estimates and the evaluation of the financial cost of any proposal relating to a matter over which Parliament has jurisdiction.

As to the last three duties listed in paragraphs 79.2(b) to (d), the PBO acts at the request of parliamentarians and committees. The PBO has clearly indicated a number of times that he intends to publish on his website all the answers to the questions he receives from parliamentarians.

His operational plan states: "All products will be published to allow for peer review, and to be challenged by parliamentarians and the executive branch or other stakeholders".³³

Appearing before the Committee, the PBO reiterated his position:

32 William Young, *Evidence*, May 14, 2009.

33 Parliamentary Budget Officer, *Operational Plan*, <http://www2.parl.gc.ca/Sites/PBO-DPB/HowWeWork.aspx?Language=E> (accessed June 10, 2009).

We have developed a product-release approach, in consultations with parliamentarians, that reflects clients' needs for quality products and the PBO requirements to work openly with departments' subject matter experts in a peer-review process.³⁴

This practice is incompatible with the current services of the Library of Parliament, which guarantees the confidentiality of the questions submitted to it by parliamentarians and of the support services it provides to parliamentary committees. When asked whether he would comply with a specific request from a parliamentarian not to disclose the information requested from the PBO, he replied: "We would not."³⁵

The Parliamentary Librarian stated for his part that the PBO must make a distinction between the method of disseminating the reports published pursuant to paragraph 79.2(a) and the answers to specific questions from parliamentarians or parliamentary committees:

[...] rather than respecting the library's policies on public reporting, the PBO has asserted independent control of his reports and has indicated that he will make them public as soon as they are available. All reports will be made public. He has made no distinction between general reports on the nation's finances and specific studies that may be requested by committees or individual parliamentarians.³⁶

In this regard, the Committee is of the opinion that the PBO's approach is inconsistent with the Act governing his position. The last three duties of his mandate clearly indicate that he acts at the request of parliamentarians and parliamentary committees. In this sense, the Committee is of the opinion that the PBO works first for parliamentarians and parliamentary committees, and it is they who ultimately control the publication of the work done at their request.

The Committee recommends:

Recommendation 6

That the Speakers of the Senate and the House of Commons instruct the Parliamentary Budget Officer that a response to a request made by a parliamentarian or a parliamentary committee in accordance with the legislated mandate shall remain confidential, until the confidentiality is lifted by the parliamentarian or the parliamentary committee making the request.

34 Kevin Page, *Evidence*, May 14, 2009.

35 Ibid.

36 William Young, *Evidence*, May 14, 2009.

The issue of the publication of the PBO's reports as part of his proactive mandate to provide analysis of the state of the nation's finances, government estimates and trends in the national economy, as set out in paragraph 79.2(a) of the *Parliament of Canada Act*, entails two separate but related issues: the provision of reports to parliamentarians before they are made public and the publication of reports during an election period.

The PBO currently publishes every product developed with his team. His approach does not indicate whether he intends to inform parliamentarians of his conclusions before the analyses are published.

Sheila Fraser, Auditor General of Canada, stated clearly in her evidence that any information relating to her reports is not made public (through news releases, speeches or publication on the Internet) until after the reports have been tabled in Parliament.

The overriding principle that guides us is to say nothing publicly that we have not already said to Parliament. For example, when we release a report, we have two lock-ups preceding tabling of a report—one for media, and one for parliamentarians. I always make my presentation to parliamentarians before I ever address the media. [...] After the tabling of a report there is obviously a fair bit of media activity. I am the spokesperson during the week of a tabling, unless I designate someone else. But staff will not give interviews by themselves. We try to collaborate and help the media do their jobs by providing them background information and clarification, but it will always be related to an audit that has been tabled in Parliament and made public.³⁷

The Committee agrees with the Auditor General and would like to see a similar approach for the publication of PBO reports, in accordance with the mandate set out in paragraph 79.2(a) of the *Parliament of Canada Act*.

With regard to this second point, the Committee is of the opinion that the issue of publishing PBO reports during an electoral period must be clarified. As to the publication of the report on the costs of the war in Afghanistan, Mr. Page indicated that he had no choice but to publish this report during an election period in order to maintain his non-partisanship.

We were in an election period and these issues were being debated. We did not want to release the report. The party leaders said: "Release the report." We are here to promote transparency; we are here to promote democracy. We do not want to be seen as partisan. We released the report.³⁸

The Parliamentary Librarian is of the opposite opinion, namely, that the publication of the report jeopardized the impartiality of the PBO and of the Library:

37 Sheila Fraser, *Evidence*, April 23, 2009.

38 Kevin Page, *Evidence*, May 14, 2009.

[...] Yet, in line with his "operating model" and in the midst of a federal election campaign, the officer released his study on the costs of the Afghanistan war, violating established parliamentary protocols for releasing reports in the absence of Parliament and calling into question the non-partisan status both of the PBO and, in my view, the library as a whole.³⁹

The Committee understands that sensitive political situations can arise, but would still like clarification regarding the publication of future reports. The practice of not presenting reports to Parliament when Parliament is not in session is a longstanding tradition on Parliament Hill. This was confirmed by Allan Darling when he appeared before the Committee:

Parliament itself has established protocols to apply to tabling of documents, etc., during the period of an election. These apply to people like the Auditor General, for example. They apply to departments that normally have a statutory mandate to table an annual report by a certain date. All those things go into suspension. It doesn't mean they won't be tabled; they're just in suspension.⁴⁰

Appearing before the Committee, Mr. Page also stated that he would be in favour of such clarification:

If this committee could put such a regulation forward [prohibiting the publication of reports during an election period], I would certainly strongly support it.⁴¹

In light of the evidence heard and our parliamentary traditions, the Committee is of the opinion that PBO reports should be tabled in Parliament only when Parliament is in session.

The requested changes to the PBO's current communication practices are consistent with the PBO's mandate of offering support services first and foremost to parliamentarians.

39 William Young, *Evidence*, May 14, 2009.

40 Allan Darling, *Evidence*, March 26, 2009.

41 Kevin Page, *Evidence*, May 14, 2009.

The Committee recommends:

Recommendation 7

That the Speakers of the Senate and the House of Commons direct the Parliamentary Budget Officer not to release any report during a general election.

Budget of the Parliamentary Budget Officer

The issue of the PBO's budget for fiscal year 2009–2010 arose very early on in the Committee's study. The Committee and other parliamentary committees had received motions on the matter. It decided to hear witnesses when considering the establishment of the PBO within the Library, and to deal with the issue of the budget following their appearance.

The PBO's budget for fiscal year 2008–2009 was \$1.85 million (it had been about \$400,000 the previous year). In 2009–2010, planned spending for the PBO remains relatively unchanged and increased 0.6% to reach a total of \$1.86 million. The PBO, and some parliamentarians and observers had expected a significant budget increase and a total in the order of \$2.86 million.

The Parliamentary Librarian's evidence of March 12 provides some clarification:

There was no budget cut for the Parliamentary Budget Officer. He received the same increase as the rest of the library received. It was not reduced by 30%. There was what I'd call a notional allocation. There was no authorization for any amount of money.

My total percentage increase was 1.5%, or \$615,000. Of that increase, \$270,000 was for non-discretionary items, collective agreements, legal fees, etc., and \$335,000 went for direct support to committees and parliamentarians—basically for new analysts for the research branch. The Parliamentary Budget Officer, I believe, received a net \$10,000, which was the same [percentage increase] that the rest of the library got.⁴²

According to the Parliamentary Librarian, a notional amount of \$2.7 million was allocated for planning purposes when the position of PBO was created within the Library of Parliament. Mr. Young provided the following explanation:

42 William Young, *Evidence*, March 12, 2009.

[...] it is normal practice with new legislation or policy initiatives to establish a notional amount that allows budgetary and operational planning. Once the operations are actually in place, however, a business analysis is prepared to see if it supports the notional amount proposed. Until this is done, the notional funds are not available to the organization for spending. This is exactly what happened in the case of the PBO. A notional amount of \$2.7 million was identified but never officially requested or authorized. Indeed, this amount does not appear anywhere in the library's budget.

So what has happened since? Once the PBO was created, the library proposed a structure, staffing levels, and operational plan based on two key provisions of the *Federal Accountability Act*. The first was that approximately three-quarters of PBO's main functions would be demand-driven on the basis of requests from parliamentarians and committees. The second was that the PBO would be integrated within the Library of Parliament.

When the time came to actually fund the PBO, the library could not predict what the demand would be for his services. However, we estimated that two-thirds of the notional allotment would be a reasonable amount with which to establish the position. At the same time, we knew, given the enthusiastic support for the function from parliamentarians, that additional resources might be required in the future.⁴³

The Committee notes that the budget allocated to the PBO, like the budgets allocated to other service areas within the Library, falls within the Library of Parliament's total budget.⁴⁴ The figure of \$2.86 million corresponds to the request made by the PBO in the fall of 2008 when senior management was planning the Library's budget. The Parliamentary Librarian stated that he had received "a business case from the PBO, the same as I received a business case from my other service heads with regard to funding they wanted for the current fiscal year, which at that point was the upcoming fiscal year".⁴⁵ The Parliamentary Librarian confirmed that the PBO's request had been submitted to the Speakers of the Senate and the House of Commons during preliminary budget discussions. However, the Speakers seem to have decided not to ask Treasury Board for this amount. Mr. Young provided some background information on the preliminary discussions:

[...] I go to a meeting with the Speaker of the House of the Commons and the Speaker of the Senate, accompanied by, usually, the director of finance and the assistant parliamentary librarian, where we present the business cases and the summary budget and estimate submission for their consideration. This has sometimes involved some

43 William Young, *Evidence*, May 7, 2009.

44 The Library of Parliament's service areas consist of the office of the Parliamentary Librarian, the Parliamentary Information and Research Service, Information and Document Resource Service, Learning and Access Services, PBO, Corporate Services, and the Information Technology Directorate.

45 William Young, *Evidence*, May 7, 2009.

to-ing and fro-ing. Finally, the Speakers will agree on what the library's budget for the subsequent fiscal year should be. They sign off. That is transmitted to Treasury Board.⁴⁶

According to the Parliamentary Librarian, there were two reasons why the PBO's budget remained at the 2008–2009 level:

The first part is that we obviously are dealing with a circumstance in which spending has been constrained. The library overall got a 1.5% increase in its budget, and we were trying to act responsibly, given the economic circumstances that we're confronting. This is in line with the increases in both the Senate and the House of Commons. So the Parliamentary Budget Officer's budget was increased, as I said, as a result of that.

The second is obviously the issue of management challenges—I touched on this as well—which is that, given his legislative mandate, which has four parts to it. [...] One part is proactive, which is the preparation of material related to Canada's fiscal and economic circumstances, and the other three parts are as a result of requests by parliamentarians or committees for specific costing information, additional economic analysis, etc.

Now, I have no information from the Parliamentary Budget Officer and have received no information from the Parliamentary Budget Officer about the level of demand for his services.

[...]

But in the meantime, I had no basis on which to increase funding. I had no evidence of any demands from parliamentarians, and at the same time, I had some evidence that he was functioning outside his legislative mandate. As the deputy head with responsibility for managing the library's funds and finances, I did not feel that I could, in all good conscience, exercise my functions as the deputy head and increase the level of funding to the Parliamentary Budget Officer under those circumstances.⁴⁷

Mr. Young also informed the Committee that he had had difficulty obtaining the PBO's cooperation during the Library's budget planning process.

The Parliamentary Budget Officer was invited to all the meetings during which the library's budget was discussed in full. All the other senior managers from the library—they had all presented business cases and we all knew we had to cut back—came to that meeting prepared to discuss and defend what a reasonable amount for those services ought to be. The PBO was not at those meetings, even though he was invited. He took

46 William Young, *Evidence*, March 12, 2009.

47 William Young, *Evidence*, May 7, 2009.

the figure of \$2.7 million. He refused to budge. It was a notional amount, a hypothetical amount.⁴⁸

In spite of this explanation, the Committee nevertheless regrets the budgetary shortfalls faced by the PBO. Given the importance that parliamentarians attach to accountability, transparency, and the informed and proper oversight of government expenditures, the Committee feels it is essential that the funding allocated to the PBO not adversely affect his ability to carry out his mandate effectively. However, the PBO stated that there will be a definite impact:

The budget I was given and notified I would be working with for the first year was \$1.8 million. For the second year, it was \$2.8 million. That was the budget I was planning on, so we built a human resource plan based on that budget. [...] It is fair to say that, at \$2.8 million, it is very difficult to provide the full breadth of the mandate. Given the restrictions put on the budget right now, with \$1.8 million, it is not possible to provide very much analysis against that mandate.⁴⁹

According to the PBO, the budget “effectively freezes the function at its start-up and partial operations phase”.⁵⁰ He adds:

It will have significant operating impacts in terms of staff reductions, limited research work plan and lengthy response times for parliamentarians and committees. Given that staffing was undertaken based on TBS confirmed funding, commitments of \$2.7 million were made. Within the Library of Parliament, approval of the PBO’s organizational structure and staffing has also been delayed due to uncertainties around the budget, endangering the retention of several senior staff members. The other significant impact of the budget reduction is that the PBO’s legislated mandate will not be fulfilled. For example, even with a \$2.75 million budget it was virtually impossible to provide scrutiny of departmental Estimates (i.e. planned expenditures) representing over \$240 billion per year. The reduction will mean that the scope for the PBO to fulfill the legislated mandate will be further reduced.⁵¹

Still according to the PBO, some parliamentarians agreed and “expressed concern that the \$2.7 million PBO budget was insufficient given the sheer scope of the legislated mandate.”⁵²

48 Ibid.

49 Kevin Page, *Evidence*, May 14, 2009.

50 Parliamentary Budget Officer, *PBO Budget Backgrounder*, tabled with the Committee, May 14, 2009.

51 Ibid.

52 Ibid.

The Committee has learned that, although the 2009–2010 budget for the PBO is \$1.86 million, the officer is still operating on the basis of a higher budget. Planned spending in the PBO's 2009-2010 proposed budget is \$2.18 million, thus representing a \$323,000 shortfall. In this proposal, salaries and associated expenditures constitute 99.7% of the total planned spending. The PBO does not appear to propose a way to fill the shortfall, except that the amount corresponds roughly to the unused allocation in 2008-2009.

The PBO employs 13 full-time equivalents, even though there should be only 10 according to the budget. Mr. Page testified that he is reducing the non-salary portion of his operating budget.

Furthermore, the Committee acknowledges that, with service expectations constantly on the rise and a budget increase of only 1.55%, the Library of Parliament will have difficulty providing parliamentarians with the same level of service. The PBO's budget issues should not be resolved to the detriment of the rest of the Library.

The Committee met with the Parliamentary Librarian and the PBO to discuss the financial requirements of the PBO. At this meeting, the Parliamentary Librarian and the PBO together agreed that an amount of \$2.8 millions was desirable. The Committee recognizes and accepts that any increase to the budget to the PBO must be approved and presented by the Parliamentary Librarian.

Therefore, the Committee recommends:

Recommendation 8

That, on the understanding that any increase of the budget of the Parliamentary Budget Officer is conditional on compliance with all other recommendations in this report, after due process and validation, the Speakers of the Senate and the House of Commons, in collaboration with the Parliamentary Librarian, submit to the Treasury Board a proposal to increase the budget of the Parliamentary Budget Officer for 2009–2010 to \$2.8 million, without reducing the current financial resources of the rest of the Library of Parliament.

It is essential that the Library of Parliament and the PBO be held accountable for the expenditure of public funds, and that there be a performance measurement mechanism for the strategic objectives and mandates of the Library and the Officer. The Parliamentary Information and Research Service has a system for managing all requests from parliamentarians, committees and associations. The Library reports annually on the number of requests it receives and how they are handled. Analysis of the data in this system is essential for the preparation of business cases that request increased levels of funding for the Library.

The Committee recommends:

Recommendation 9

In order to justify future increases in the budget allocation of the Parliamentary Budget Officer, that the Speakers of the Senate and the House of Commons instruct the Parliamentary Budget Officer to establish a management system similar to the one already in place within the Library of Parliament for all requests from parliamentarians and committees.

Discussions concerning the Library of Parliament's main estimates for 2009–2010, and particularly the budget allocated to the PBO, raise questions about the budget planning process. Currently, the Committee does not become involved in this process until after the budgets have been tabled in the House of Commons, and it can only reduce or refuse them. The Committee plays an advisory role and assists the two Speakers in managing the Library. The Committee does not monitor departments or government actions, nor is it a management committee.

Parliamentarians want to have more input into the Library's budget and spending priorities. They want to gain greater familiarity and expertise regarding the Library's financial activities. The Committee could play a far larger and more active role in reviewing the Library's main and supplementary estimates.

The Parliamentary Librarian suggested that the Committee be asked to “review the main estimates, and any supplementary estimates of the Library of Parliament [...] in advance of tabling.”⁵³ This initiative could be launched on a trial basis and reviewed after one or two budget cycles.

Mr. Young stated that:

[T]he House of Commons budget is reviewed and approved by the Board of Internal Economy, and the Senate budget by the Standing Committee on Internal Economy, Budgets and Administration. These committees both play the critical role of approving the annual budget estimates, examining expenditures, approving salary scales for non-unionized employees, and authorizing the negotiation of collective agreements.

53 William Young, *Evidence*, May 7, 2009.

In the case of the Library of Parliament, however, there is no comparable management body. Our budget goes directly to the Speakers of the Senate and the House for their consideration.⁵⁴

The Committee therefore recommends:

Recommendation 10

That the Speakers of the Senate and the House of Commons mandate the Standing Joint Committee on the Library of Parliament to take on a larger role in examining funding proposals from the Library of Parliament by developing a procedure whereby the Library's main and supplementary estimates are submitted to the Joint Committee for oversight and advice in advance of tabling.

Conclusion

The purpose of this study was to review the matters raised with regard to the services of the PBO. This study was necessary to clarify the role of the PBO and his status within the Library of Parliament.

The members of the Committee are in agreement with respect to the importance of the role of the PBO, and we value the work that he does. The position of PBO has been instituted in order to provide parliamentarians with the tools they need to hold the government to account.

The Committee examined three issues requiring clarification, namely, independence and governance, the approach to client services and external communications, and the budget of the PBO. Based on the evidence heard, the Committee arrived at a consensus and made a number of observations in order to enable the various parties involved to resolve certain issues and to make the necessary changes to practices which, in the Committee's opinion, must be changed.

The Committee acknowledges that there are some who wish the PBO was not an officer of the Library of Parliament but rather an officer of Parliament. However that is not what the present law provides. Therefore, it is essential that a working relationship evolves so that the Library of Parliament works as a cohesive whole and not in silos. The Committee

54 Ibid.

considers that this objective can only be achieved if the Parliamentary Librarian and the PBO work cooperatively.

The Committee believes its recommendations will lead to practical and lasting solutions to ensure that there is greater understanding between the Parliamentary Librarian and the PBO. It is important that the PBO carries out the mandate conferred under the Act, namely, to offer support services to parliamentarians and parliamentary committees. This means among other things that the work done for parliamentarians belongs to them, and it is up to them to determine when and how to use that information. It is incumbent upon the PBO in self-initiated reports, to report first to parliamentarians before any release to the public is made. Furthermore we believe that the PBO must respect the confidentiality wishes of committees of both the Senate and the House of Commons and of individual parliamentarians with respect to specific reports they requested.

Having said this, the Committee agrees that the PBO needs sufficient funds to carry out his mandate effectively, and is counting on the full cooperation of the Parliamentary Librarian and the PBO to ensure that Parliament is well served.

The Committee wishes to remind the Speakers of the Senate and the House of Commons of the need to take prompt action in this regard. The situation that has persisted for a number of months at the Library of Parliament is regrettable and must be resolved as quickly as possible.

LIST OF RECOMMENDATIONS

Recommendation 1

That the Speakers of the Senate and the House of Commons direct the Parliamentary Budget Officer to respect the provisions of the Act establishing his position within the Library of Parliament. The Parliamentary Budget Officer reports to the Parliamentary Librarian and, as a senior official of the Library, it is his responsibility to participate fully in management activities and to work closely with the Library's other service areas.

Recommendation 2

That the Speakers of the Senate and the House of Commons request the Standing Joint Committee on the Library of Parliament to evaluate the effectiveness of the position of the Parliamentary Budget Officer commencing on the third anniversary of his appointment.

Recommendation 3

That the Speakers of the Senate and the House of Commons ask the Parliamentary Budget Officer to provide them with an action plan describing how he intends to carry out all of the duties mandated under the Act, and that this plan be submitted for review by the Joint Committee of the Library of Parliament.

Recommendation 4

That the Speakers of the Senate and the House of Commons ask the Parliamentary Information and Research Service of the Library of Parliament and the Parliamentary Budget Officer to standardize their service agreements with the parliamentarians and committees.

Recommendation 5

That the Speakers of the Senate and the House of Commons direct the Parliamentary Information and Research Service of the Library of Parliament and the Parliamentary Budget Officer to collaborate and coordinate their activities regarding the review of government estimates and the evaluation of the financial cost of any proposal relating to a matter over which Parliament has jurisdiction.

Recommendation 6

That the Speakers of the Senate and the House of Commons instruct the Parliamentary Budget Officer that a response to a request made by a parliamentarian or a parliamentary committee in accordance with the legislated mandate shall remain confidential, until the confidentiality is lifted by the parliamentarian or the parliamentary committee making the request.

Recommendation 7

That the Speakers of the Senate and the House of Commons direct the Parliamentary Budget Officer not to release any report during a general election.

Recommendation 8

That, on the understanding that any increase of the budget of the Parliamentary Budget Officer is conditional on compliance with all other recommendations in this report, after due process and validation, the Speakers of the Senate and the House of Commons, in collaboration with the Parliamentary Librarian, submit to the Treasury Board a proposal to increase the budget of the Parliamentary Budget Officer for 2009–2010 to \$2.8 million, without reducing the current financial resources of the rest of the Library of Parliament.

Recommendation 9

In order to justify future increases in the budget allocation of the Parliamentary Budget Officer, that the Speakers of the Senate and the House of Commons instruct the Parliamentary Budget Officer to establish a management system similar to the one already in place within the Library of Parliament for all requests from parliamentarians and committees.

Recommendation 10

That the Speakers of the Senate and the House of Commons mandate the Standing Joint Committee on the Library of Parliament to take on a larger role in examining funding proposals from the Library of Parliament by developing a procedure whereby the Library's main and supplementary estimates are submitted to the Joint Committee for oversight and advice in advance of tabling.

APPENDIX A LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
<p>As an individual Allan Darling, Former Senior Special Advisor to the Library of Parliament</p>	2009/03/26	3
<p>Treasury Board Secretariat Joe Wild, Executive Director, Strategic Policy</p>		
<p>As individuals Hon. Peter Adams, Former Member of Parliament Patrick Boyer, Former Member of Parliament Hon. Herb Breau, Former Member of Parliament Madeleine Dalphond-Guiral, Former Member of Parliament Douglas Rowland, Former Member of Parliament</p>	2009/04/02	4
<p>Office of the Auditor General of Canada Sheila Fraser, Auditor General of Canada Douglas Timmins, Assistant Auditor General</p>	2009/04/23	5
<p>Privy Council Office Karl Salgo, Director of Strategic Policy, Machinery of Government Roberta Santi, Assistant Secretary to the Cabinet, Machinery of Government</p>		
<p>Library of Parliament Kevin Page, Parliamentary Budget Officer William R. Young, Parliamentary Librarian</p>	2009/05/14 and 2009/06/11	7 11

APPENDIX B LIST OF BRIEFS

Organization

Library of Parliament

MINUTES OF PROCEEDINGS

A copy of the relevant Minutes of Proceedings ([Meetings Nos. 3, 4, 5, 7, 8, 9, 10 and 11](#)) is tabled.

Respectfully submitted,

Hon. Sharon Carstairs, Senator
Joint Chair

Peter Goldring, M.P.
Joint Chair

