

RE: MEDG Special Advisor

From: "Korn, Paul (TBS)" <paul.korn@ontario.ca>
To: "Carson, Cheryl (ENERGY/MEDEI/MRI)" <cheryl.carson@ontario.ca>
Cc: "Bromm, William (CAB)" <william.bromm2@ontario.ca>, "Girard, Sandra (TBS)" <sandra.girard@ontario.ca>, "Hatzis, Len (TBS)" <len.hatzis@ontario.ca>
Date: Thu, 22 Dec 2016 10:04:54 -0500
Attachments: Pension Asset Expert Advisory Panel_MN Order 20161031F.doc (41.98 kB); Pension Asset Expert Advisory Panel_OIC v3 20161102.pdf (542.41 kB); Special Advisor_Economic Policy Establishment OIC v3 20161116.pdf (454.59 kB); Special Advisor_Missions-Tours Appointment OIC v3 20161116.pdf (326.25 kB); Special Advisor_Mission-Tours Remuneration OIC v3 20161116.pdf (661.66 kB)

Cheryl, I enclose the following recent precedents:

- TBS Minister's Order (constituting instrument) – content would be the same if it were an OIC / I don't have the Minister's letter appointments handy / remuneration OIC.
- MIA OIC constituting instrument / appointment OIC / remuneration OIC (MIA's Ministry Act does not have a relevant provision, so we had to use prerogative)

There are two OICs with orphan signature blocks – that happened for reasons beyond my control and should never happen again.

MEDG can choose whether to go with LGIC or Minister under the MEDT Act with respect to constituting and appointing instruments. Remuneration must be done by LGIC via TB/MBC, despite the dual legal authority conferred in the MEDT Act. If you look at the comparable provision in the MGS Act, we made sure that the legal and administrative authorities lined up. You might consider doing the same next time you open up the MEDT Act.

For business case and terms of reference, those would be prepared by your clients, and they can reach out to their usual TBS contacts when they're ready. They should also review the relevant provisions of the AAD before asking TBS any questions. Everything has to go through TB/MBC, except appointments (appointment OIC can go directly to Cabinet or Minister's letter can be prepared, but either way, PAS must be involved).

Thanks,
PGK

From: Bromm, William (CAB)
Sent: December 21, 2016 5:25 PM
To: Korn, Paul (TBS); Carson, Cheryl (ENERGY/MEDEI/MRI)
Cc: Girard, Sandra (TBS); Hatzis, Len (TBS)
Subject: Re: MEDG Special Advisor
Sensitivity: Confidential

Thanks Paul,

Cheryl, further to Paul's comment below re reporting, what I suggested was something

like "Working with the Deputy Minister of EDG, the special advisor will report to the Minister on.....".

This has the appropriate political reporting relationship while having at least some connection to the DM.

W

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Korn, Paul (TBS)
Sent: Wednesday, December 21, 2016 3:31 PM
To: Carson, Cheryl (ENERGY/MEDEI/MRI)
Cc: Bromm, William (CAB); Girard, Sandra (TBS); Hatzis, Len (TBS)
Subject: MEDG Special Advisor

PS. One more doc below in red

Hi Cheryl, we understand that MEDG is considering the appointment of a special advisor to take on the role of chief investment officer, which was originally conceived as an SMG4 position. We've been asked by TBS CPLL if we could provide your branch with some assistance. We've been advised that your client DM would like the special advisor position to report to him.

Unfortunately, a public appointment is not really akin to staffing at the SMG4 level. Generally, we can't have a political / public appointee report to a deputy minister. It may be possible to craft a communications protocol in the terms of reference that would involve the deputy minister, but the reporting relationship would be to the minister. We've heard that William Bromm has already proposed something along this line.

We assume that MEDG would rely on s. 6.1 of the *Ministry of Economic Development and Trade Act*.

Advisory committees

6.1 The Lieutenant Governor in Council or the Minister may,

- (a) establish committees to advise the Minister on the discharge of the Minister's powers and duties that are specified in the appointment;
- (b) appoint the chairs and vice-chairs of the committees; and
- (c) set the remuneration and expenses of the members of the committees.

Your MEDG clients should be reviewing the special advisor and remuneration provisions of the *Agencies and Appointments Directive* (AAD). A TB/MBC submission would be required, including:

- A constituting instrument for the office of special advisor (OIC or Minister's Order under the MEDT Act)
- An appointment (OIC or Minister's letter under the MEDT Act)
- Remuneration OIC (remuneration by Minister is not permitted under the AAD, despite clause 6.1 (c) of the MEDT Act)
- A business case
- A terms of reference

The appointment, if done by OIC, would go directly to Cabinet. Whether the appointment were done by OIC or Minister's letter, PAS would have to be involved. The other pieces, whether done by OIC or Minister's Order, would have to go to TB/MBC.

We have recent precedents for the legal instruments referenced above if you need them. Tomorrow is my last day at work before the holidays.

Thanks,
PGK

Paul G. Korn
Senior Counsel

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