

INTERNAL AUDIT DEPARTMENT



FOLLOW-UP AUDIT REVIEW

**Department of Immigration
Belonger Application Process**

January 2014

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INTRODUCTION

The Internal Audit Department completed a follow-up review of the Belonger Application Process pursuant to an audit conducted in June 2012 (*See Appendix A*). In carrying out the follow-up exercise, a meeting was held with the Acting Chief Immigration Officer, the Desk Officer within the Premier's Office responsible for Immigration, and the Secretary for the Board of Immigration, to determine whether the recommendations provided in the internal audit report were implemented and, if so, what effects, if any, have they had on the improvement of the process.

The results of this review found that the Department of Immigration and the Premier's Office have not implemented majority of the recommendations provided. There were nine (9) recommendations provided, however, of these, none were fully implemented and two (2) were partially implemented.

RECOMMENDATION 1: NOT IMPLEMENTED

It is recommended that amendments be made to the Act to make it more reflective of issues and realities that exist in the global arena as it relates to immigration and the awarding of status.

MANAGEMENT RESPONSE

Agree/Disagree	AGREE.
Corrective action planned	Implement numerous recommendations forwarded by the Board to the Premier's Office.
Anticipated completion date	November 2012
Names(s) of contact person(s) responsible for corrective action	Permanent Secretary, Desk Officer for Immigration

ACTION TAKEN

The Premier's Office has indicated that work has commenced on amending the Immigration and Passport Ordinance Cap 130 in order to bring both the Ordinance and Policy (Memo 367/2004) into alignment. To date, there has been no revision or change to the Ordinance or policy. The conflicting policy document continues to be used as the criteria for eligibility for Belonger status. As a result, the issue continues where individuals desirous of acquiring status are deprived being considered because the policy stipulates a twenty-five (25) years qualifying period whilst the Ordinance states ten (10) years. The use of such criteria continues to be illegal.

A number of challenges were expressed as being the reasons as to why no significant actions have been taken in this regard. These include:

- A change in Government administration,
- A change in personnel within the Status Unit
- A change in Board members

The Premier’s Office also indicated that a Policy Officer was recently engaged to assist with revisions to the current policy and Ordinance to remove the inconsistency that exists with the two documents. However, no timeframe was stated to indicate when the anticipated changes are likely to be made.

FOLLOW-UP RECOMMENDATION

As these documents form an integral part in the administration of the process, and the current use of these documents has created confusion in the administering of the process, it is important that every effort be made, to bring both documents (policy and ordinance) in alignment. It is therefore recommended that a realistic timeframe be developed as to when the necessary amendments to the Ordinance and policy will be made. Subsequent to this, active efforts should be made to meet the established timeframe.

RECOMMENDATION2: NOT IMPLEMENTED

It is further recommended that the policy decisions that were outlined in Executive Council’s decision Memo 367/2004 be amended in the Immigration and Passport Act to ensure that both policy and law are in sync and so that there is no confusion in administering the guidelines.

MANAGEMENT RESPONSE

Agree/Disagree	AGREE.
Corrective action planned	Take action requires to make policy law.
Anticipated completion date	March 2013
Names(s) of contact person(s) responsible for corrective action	Permanent Secretary, Desk Officer for Immigration

ACTION TAKEN

No action has been taken to ensure that the policy (Memo 367/2004) that is currently utilized in the administration of Belonger Status coincides with the law. The same challenges expressed in reference to recommendation 1 also apply.

FOLLOW-UP RECOMMENDATION

As this recommendation goes hand in hand with recommendation 1, it is therefore recommended that a realistic timeframe be developed as to when amendments to the Ordinance and policy will be made. In addition to the ensuring that both policy and Ordinance complement each other, the Constitution Order should also be considered to ensure that all legislations are in harmony.

RECOMMENDATION 3:PARTIALLY IMPLEMENTED.

It is recommended that a structured and staffed Status Unit be established to handle the various aspects of the process and matters relating to the processes. The magnitude of work required for the efficient operation of the Unit requires the necessary human resources to sustain it. Additionally, it is required so that adequate controls can be in place to prevent and deter any wrong doings from occurring.

MANAGEMENT RESPONSE

Agree/Disagree	AGREE.
Corrective action planned	Hire three (3) persons at clerical level to work in the Status Unit to support the SEO. Candidates must be computer literate, mature, confidential and knowledgeable of residents.
Anticipated completion date	September 2012
Names(s) of contact person(s) responsible for corrective action	Human Resources, Premier’s Office

ACTION TAKEN

The Belonger Application Process is now a shared process between the Department of Immigration and the Premier’s Office. This step was undertaken to bring greater efficiency to the process and to provide additional resources. Two (2) new officers have been added to the process, an Acting Executive Officer and an Acting Senior Administrative Officer, along with the Desk Officer for Immigration at the Premier’s Office. However, the initial officer, the Senior Executive Officer, no longer works with the Status Unit.

The Department of Immigration has expressed that in general they have encountered challenges in securing candidates to fill vacant clerical positions within the Department. Contributing factors include; the sensitive nature of the work done in the Department and a core quality that candidates should possess which is confidentiality, as this is a necessity for any officer hired to work in the Status Unit. As a result, only one officer at the Department is employed in the Status Unit.

Under the current structure an officer within the Premier's Office functions as the Secretary to the Board. In addition, the Office's role includes:

- Receives completed applications from the Department of Immigration,
- Arrange interviews,
- Prepare summary sheets for the Board after applicant screening is completed,
- Prepares minutes of Board Meetings,
- Desk Officer, Premier's Office prepares Cabinet Paper based on Board's recommendations,
- Permanent Secretary reviews Cabinet Paper and approves,
- Cabinet Paper is submitted to the Premier for review and approval,
- Submitted to Cabinet,
- Cabinet reviews and approves, denies or defer,
- Cabinet Office prepares extracts from Cabinet Minutes,
- Premier's Officer receives a copy of the Cabinet extract, and
- Desk Officer, Premier's Office sends a copy of the extract to the Chief Immigration Officer requesting required action

The Department of Immigration's role includes:

- Screening incoming applications,
- Acknowledging applications,
- Once process is completed and status awarded, Cabinet extract is received approving status,
- Status Unit notifies applicants, collects payment, distributes belonger certificates to applicants, and
- Creates Belonger File

FOLLOW-UP RECOMMENDATION

Although this current structure brings some added human resources, it is important that the process controls to monitor the chain of custody of documents be also implemented to assist with monitoring applications under this new structure. In addition, if it is realistic and if the Department's workload allows, cross training of current staff is encouraged to lend to the process the needed resources especially when officers have to take leave.

RECOMMENDATION 4: NOT IMPLEMENTED

It is recommended that the ‘For Official Use Only’ section of the application to be utilized as part of the process, until amendments are made to modify the application to reflect the reality of what is occurring.

MANAGEMENT RESPONSE

Agree/Disagree	AGREE. Currently, this section is mostly utilized when applications are denied. It could be utilized to a greater extent and in the manner alluded to in the draft report.
Corrective action planned	Utilize the “Official Use” Section of form to note movement from one stage of the process to next. Review form and recommend revisions.
Anticipated completion date	August 2012
Names(s) of contact person(s) responsible for corrective action	Chief Immigration Officer Senior Executive Officer, Status Unit

ACTION TAKEN

No action has been taken. Although it was agreed that this will provide a form of monitoring the movement of applications through the process, the ‘For Official Use Section Only’ continues to not be utilized. No reason was provided as to why this Section is currently not being utilized, however, the concern still remains that the non-utilization of this section removes a number of controls that it aims to ensure is administered within the process:

- A chain of custody which creates a system of responsibility and accountability
- Verification that the requisite authorities have duly conducted their role within the process and that all requisite authorities are aware of the position of each person.
- It provides data for informative purposes to monitor the process flow.

FOLLOW-UP RECOMMENDATION

As no significant controls have been implemented to guide and monitor the process, it is recommended that this section of the application be utilized to provide greater transparency and accountability within the process. The section was implemented when the form was initially created because it was viewed as a necessary component of the process, therefore, it will not only add controls but provide the requisite authorities involved in the process with information that the requisite authority completed their role within the process.

RECOMMENDATION 5: NOT IMPLEMENTED

It is recommended that a Public Awareness Campaign be undertaken to educate the members of the public on the Belonger Application Process. This initiative will help to provide information that will assist members of the Public in understanding the various phases and aspects of the process and clarify any misunderstandings they may have about the process.

MANAGEMENT RESPONSE

Agree/Disagree	AGREE.
Corrective action planned	Engage GIS and Director of Communication to carry out campaign for both Residence and Belonger Status Application Process. This education process should come on stream with the introduction of the new policy.
Anticipated completion date	March 2013
Names(s) of contact person(s) responsible for corrective action	Information Officer, Premier’s Office Desk Officer

ACTION TAKEN

Due to the number of applications that remain outstanding to be processed; and the inability of the Department of Immigration and Premier’s Office in gaining adequate control of the current outstanding applications, (in reducing the amount outstanding), no action has been taken to implement the Public Awareness Campaign. As at the date of this follow-up exercise, approximately three hundred and fifty-five (355) applications remain unprocessed. It was communicated that the implementation of this Campaign had the possibility of creating a further strain on the process, as it had the potential to create an influx of applications which the system could not accommodate. As a result, the decision was madethat until significant headway is made with reducing the backlog of applications, no further action in this regard would be taken, as it would prove counter-productive.

It was further stated that when adequate control on outstanding applications has been achieved, the Department and Premier’s Office will engage the Director of Communications to begin the process of educating the public about the process. The audit team understands the position taken as it is reasonable. However, once the process is brought under control, that is, outstanding applications are reduced to a reasonable and adequate amount; every effort should be made to implement the Awareness Campaign.

FOLLOW-UP RECOMMENDATION

It is recommended that a timeframe also be developed where over the next five (5) years, the Premier's Office in collaboration with the Department of Immigration actively pursue reducing the number of applications to be processed. When this is achieved, vigorous efforts should be made to educate the Public on the process and any new controls implemented to address the long standing issue of applications being misplaced and persons having to resubmit them. This will assist in creating greater confidence in the Public's eyes of the process, the Department and the Premier's Office.

RECOMMENDATION 6:PARTIALLY IMPLEMENTED

It is recommended that a database to manage the processing of applications be researched and explored. In the short term modifications of the current excel spreadsheets used by the Senior Executive Officer should be undertaken to add greater efficiency and information on applications and their positions within the process.

MANAGEMENT RESPONSE

Agree/Disagree	AGREE.
Corrective action planned	Deputy Chief Immigration Officer to discuss with Department of Information Technology (DOIT).
Anticipated completion date	September 2012
Names(s) of contact person(s) responsible for corrective action	Deputy Chief Immigration Officer

ACTION TAKEN

In the absence of a database to track applications through the process, the Premier's Office has made modifications to the previous spreadsheet that was being utilized and has added two (2) sections which includes an application details section and a decision information section to provide greater efficiency in locating applicant's names and the status of their applications. The use of this modified spreadsheet is in its initial stages as data still has to be entered to bring it to a completed state that is functional to stakeholders.

Further actions to be taken include the option of implementing a database. The Premier's Office in collaboration with the Department of Information Technology, will continue research and possible purchase of a database to assist and improve the function.

FOLLOW-UP RECOMMENDATION

It is recommended that active efforts be made to complete the necessary incomplete entries of the modified spreadsheet. If this is not realistic it is recommended that all information for all applications from 2013 be completed, to provide greater efficiency with providing information those involved and for customers who may request status updates from time to time.

RECOMMENDATION 7: NOT IMPLEMENTED

It is also recommended that whenever a decision is made by Cabinet or the Board to deny approval of status for an applicant, clear reasons as to why the decision was taken should be documented, especially for those cases where the Board made a recommendation and it was denied by Cabinet. This will help to ensure that transparency, equitability and justification behind the decision taken.

MANAGEMENT RESPONSE

Agree/Disagree	AGREE.
Corrective action planned	Premier's Office will write this into the Cabinet Decision Section of the Cabinet Papers.
Anticipated completion date	N/A
Names(s) of contact person(s) responsible for corrective action	Permanent Secretary, Desk Officer

ACTION TAKEN

No action has been taken in this regard. The Desk Officer within the Premier's Office stated that contact has to be made with the Cabinet Secretary to determine how best to implement this recommendation. No new date was given as to when this will be done.

FOLLOW-UP RECOMMENDATION

As this recommendation has much bearing on the transparency and equity of the decisions made on applications, it is recommended that this effort be undertaken as a collaborative effort with the Cabinet's Secretary's Office to implement this recommendation. It will also allow personnel involved in the process to be better informed on decisions made.

RECOMMENDATION 8:NOTIMPLEMENTED

It is recommended that an adequately structured file management system be implemented at the Immigration Department. This will assist in tracking the movement of files within the Department and assist in ensuring records are secured and being accounted for in an appropriate manner.

MANAGEMENT RESPONSE

Agree/Disagree	AGREE.
Corrective action planned	Needs a file manager (records officer) and a filing system (electronic) within the Unit to promote seamless continuity of operations in the absence of the SEO.
Anticipated completion date	October 2012
Names(s) of contact person(s) responsible for corrective action	Desk Officer Records Officer, Premier’s Office Human Resources Manager, Premier’s Office

ACTION TAKEN

Currently files are still housed at the Department of Immigration. However, it was stated that plans have been expressed to move these files to the Premier’s Office as the Office has resources to assist with the maintenance and management of applicant files. However, only the applications for Belonger status with supporting documentation are submitted to the Premier’s Office.

FOLLOW-UP RECOMMENDATION

In addition to an adequately structured file management system, it is further recommended that application numbers be implemented to assist with the tracking of applications through the process. These numbers should be assigned to each completed application at the inception of the process and the number should be communicated to the applicant in the acknowledgment letters. This will provide a source of reference for both the applicant and the Department and assist in easily locating status information on an application.

RECOMMENDATION 9: NOT AGREED

It is uncertain if an increase in the number of times the Board meets will assist in reducing the outstanding applications. Bearing in mind that the Board is governed by the law and policy, it is recommended that an estimated timeframe be determined for the processing of applications, as Government is in the business of providing services to the Public and these services should be performed within adequate timeframes.

MANAGEMENT RESPONSE

Agree/Disagree	DISAGREE.
Corrective action planned	Time frame is largely dependent on the support system available, the file management system, clear policy/law to promote transparency and the compliance of Cabinet Members with the system.
Anticipated completion date	N/A
Names(s) of contact person(s) responsible for corrective action	

ALTERNATIVE ACTION TAKEN

This recommendation was not agreed to and no alternative action plan was provided and the current number of outstanding applications was three hundred and fifty-five (355) applications. Bearing in mind that it was stated that implementing a timeframe was largely dependent on the support systems in place to assist with the process (additional human resources, an adequate file management system, adequate application monitoring systems, a database, etc.) and none of these have been implemented, the current number of outstanding applications continues to be significant and with no clear action plan to reduce the outstanding amount. As the process of awarding of status continues, it is possible that this amount will remain significant or possibly increase, if no clear plan to reduce processing time is implemented.

FOLLOW-UP RECOMMENDATION

As the current amount of applications to be processed remains high, it is once again reiterated that a realistic timeframe to reduce the number of outstanding applications be developed. In addition, seeing that the systems implemented to assist and support the process have direct impact on achieving this, it is recommended that active efforts be made to ensure that necessary changes and improvements are made to bring the necessary controls and efficiency that is required to the process.

ADDITIONAL MATTERS

A sample of thirty eight (38) persons was selected to review the process flow of their applications. In 2011, a list of two hundred and twenty-four (224) persons, on Memos 430/2011, 139/2011 and Minutes 2916 and 2915, was produced for persons whose Belonger status was approved illegally. Six (6) persons identified on this list also formed part of the current sample.

The review revealed that the six (6) applicants, who although initially were awarded Belonger status, were required to go through the established process as the status initially approved was done contrary to the legally established process. They were subsequently awarded status on the recommendation of the Board and the re-approval of Cabinet. It was also discovered that, at the time status was initially awarded in 2011, all of the applicants had an application submitted to the Department of Immigration for consideration. However, they were never interviewed or subject to any other criteria of the established process. It is uncertain if all persons appearing on the list of persons who received status contrary to the established process have had to go through the Board to receive their status.

Documents reviewed at the Premier's Office indicated that the decision to have persons who were awarded status contrary to the process go through the established process was done based on the advice from the Attorney General's Chambers (memorandum dated November 14, 2012). Although this memorandum spoke to the awarding of Residency Status without consulting the Board of Immigration, the same applies to Belonger Status. As also indicated in the advice provided, if persons appearing on this list were in fact given status without any consideration or evaluation by the Board, their statuses can be questionable and the process can be subject to review, as the manner/process through which the status was awarded was contrary to the relevant legislation. Additionally, where legislation stipulates that one decision making body is to consult with another prior to making a decision or conducting an act, there are reasons why such provisions or guidelines are made. Provisions such as the appointment of boards or committees are to provide added procedural safeguards to aid decision makers. When decisions are made outside of such established safeguards, they increase the likelihood for the decisions to be questionable and possibly subject to legal review.

The remaining applicants that comprised the sample reviewed were found to have been awarded status as outlined by the established process. No instances were identified whereby, names were added to the list that was recommended by the Board, as all names reviewed were recommended by the Board, approved by Cabinet and subsequently awarded status.

CONCLUSION

The Belonger Application Process has not undergone any significant change since the submission of the audit report in 2012. Therefore, much of the issues expressed in that report remain unresolved and therefore, most of the risks expressed in that report remains unaddressed.

It is important that in the administering of processes, administrators are clear in what their roles and functions entail. In addition, clear guidelines are necessary to ensure consistency and transparency in the process. Failure to ensure that the requisite legislation and policies utilized, in the administration of the Belonger Application Process are amended or revised, along with the implementation of other recommendations provided will result in continued inefficiencies and ineffectiveness within the process. Therefore, it is essential that timeframes be determined for the revision of these legislations to create customer satisfaction and confidence within the service provided.