PART 3.7

DEPARTMENT OF HEALTH AND COMMUNITY SERVICES

NEWFOUNDLAND AND LABRADOR CENTRE FOR HEALTH INFORMATION
Executive Summary

The Newfoundland and Labrador Centre for Health Information (the Centre) is a Crown agency reporting to the Department of Health and Community Services (the Department). The Centre is responsible to the Minister of Health and Community Services through its Board of Directors (the Board). Board members are appointed by the Lieutenant-Governor in Council. The Centre is governed by the Centre for Health Information Act (the Act).

The Centre has a mandate to assist individuals, communities, health service providers and policy makers at federal, provincial and regional levels in making informed decisions that enhance the health and well-being of persons in the Province.

The Centre is responsible for the development of a confidential and secure health information network, which will serve as the foundation for the Province’s Electronic Health Record (EHR). There are five components to the EHR: client registry; provider registry; pharmacy network; picture archiving and communication system; and interoperable EHR/laboratories project.

Our review identified concerns with:

- compensation and recruitment practices; and
- governance.

Compensation and Recruitment Practices

The Centre uses public money to compensate employees. Government is, effectively, the ultimate employer of all public employees whether they work for a Government department or a Crown agency. Treasury Board has recently directed that, as an agency, the Centre is to ensure that certain of their compensation policies are consistent with Government policies. Our review of compensation and recruitment practices indicated concerns with:

- job competitions;
- upscale hiring;
- the Centre’s pay structure;
Newfoundland and Labrador Centre for Health Information

- step increases;
- reclassifications;
- pay in lieu of notice;
- the Chief Executive Officer Contract of Employment;
- salary increases; and
- hiring of external consultants to fill employee vacancies.

**Governance**

The members of the Board are appointed by the Lieutenant-Governor in Council under the Act. This appointment directs that the Board shall exercise all of the powers and discharge all of the duties of the Corporation and administer and manage its business.

Our review of Board governance identified that:

- there was no current representative from the Department;
- the Lieutenant-Governor in Council had not appointed a new chairperson since September 2011; and
- the Centre has not established selection criteria for appointment to the Board.

**Background**

**Overview**

The Newfoundland and Labrador Centre for Health Information (the Centre) is a Crown agency reporting to the Department of Health and Community Services (the Department). The Centre was established in October 1996 and became a Crown agency of the Province with the proclamation of the Centre For Health Information Act (the Act) on April 27, 2007. As a Crown agency, the Centre has enhanced access to federal funding and revenue through private partnerships enabling it to attract and obtain additional investment to further develop and implement the provincial health information infrastructure.
Newfoundland and Labrador Centre for Health Information

The Centre is responsible to the Minister of Health and Community Services (the Minister) through its Board of Directors (the Board), members of which are appointed by the Lieutenant-Governor in Council. The Centre has a mandate to assist individuals, communities, health service providers and policy makers at federal, provincial and regional levels in making informed decisions that enhance the health and well-being of persons in the Province by providing a comprehensive Province-wide information system that:

- protects the confidentiality and security of personal and health information that is collected, used, disclosed, stored or disposed by the Centre;

- provides accurate and current information to users of the health and community services system;

- integrates data from all components of the health and community services system;

- is efficient and cost-effective; and

- is flexible and responsive to the changing requirements of users of the system.
Chart 1 shows the expenses and the number of employees at the Centre for the fiscal years ended March 31, 2007 through to March 31, 2012.

**Chart 1**

**Newfoundland and Labrador Centre for Health Information**  
Expenses and Employees  
Fiscal Years Ended March 31

As indicated in Chart 1, total expenses of the Centre have increased from $12.2 million for the year ended March 31, 2007 to $27.0 million for the year ended March 31, 2012, a 121% increase. During this period, salaries and benefits have increased from $2.6 million to $11.8 million (354%), while the number of employees has increased from 54 to 156 (189%). In addition, consulting fees have increased from $2.9 million to $4.8 million (66%).

The development and implementation of the Province’s Electronic Health Record (EHR) has contributed to the significant growth in employees and expenses over the past several years.
An EHR is a secure and private lifetime record of select components of an individual’s health and care history, available electronically to authorized health providers. It facilitates the sharing of data across the continuum of care, across healthcare delivery organizations and across geographies.

The Centre is responsible for the development of a confidential and secure health information network, which will serve as the foundation for the Province’s EHR. There are five components to the EHR: client registry, provider registry, pharmacy network, picture archiving and communications system (PACS), and interoperable EHR/laboratories project (iEHR/Labs project).

According to Centre officials, as at October 2012, the client registry, provider registry, and PACS are complete. Approximately 43% of community pharmacies have connected to the pharmacy network. Connection to the network by community pharmacies is not compulsory. The iEHR/Labs project is estimated to be completed by September 2014.

As at October 2012, the Federal and Provincial Governments have made commitments totaling approximately $57.8 million and $32.0 million, respectively, for a total of $89.8 million toward the development of the Province’s EHR.

Table 1 shows the revenue and expenses of the Centre for the fiscal years ended March 31, 2011 and March 31, 2012. Revenue was comprised primarily of funding from the Province and the Federal Government. Salaries and benefits and consulting fees were the largest expenses in both 2011 and 2012, comprising 61.2% of total expenses in 2012.
Table 1

Newfoundland and Labrador Centre for Health Information
Revenue and Expenses
Fiscal Years Ended March 31
(000’s)

<table>
<thead>
<tr>
<th></th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenue</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provincial Grants</td>
<td>$18,697</td>
<td>$19,833</td>
</tr>
<tr>
<td>Federal Grants</td>
<td>4,679</td>
<td>2,123</td>
</tr>
<tr>
<td>Amortization of deferred capital</td>
<td>960</td>
<td>1,669</td>
</tr>
<tr>
<td>Research</td>
<td>656</td>
<td>678</td>
</tr>
<tr>
<td>Interest</td>
<td>30</td>
<td>117</td>
</tr>
<tr>
<td>Other</td>
<td>2,593</td>
<td>2,014</td>
</tr>
<tr>
<td><strong>Total Revenue</strong></td>
<td>27,615</td>
<td>26,434</td>
</tr>
<tr>
<td><strong>Expenses</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Salaries and Benefits</td>
<td>10,854</td>
<td>11,754</td>
</tr>
<tr>
<td>Consulting Fees</td>
<td>5,952</td>
<td>4,783</td>
</tr>
<tr>
<td>Depreciation</td>
<td>2,707</td>
<td>3,321</td>
</tr>
<tr>
<td>Software Maintenance</td>
<td>2,847</td>
<td>3,183</td>
</tr>
<tr>
<td>Rent</td>
<td>980</td>
<td>933</td>
</tr>
<tr>
<td>Data communication charges</td>
<td>867</td>
<td>893</td>
</tr>
<tr>
<td>License Fees</td>
<td>280</td>
<td>542</td>
</tr>
<tr>
<td>Minor Equipment</td>
<td>99</td>
<td>110</td>
</tr>
<tr>
<td>Other</td>
<td>1,626</td>
<td>1,498</td>
</tr>
<tr>
<td><strong>Total Expenses</strong></td>
<td>26,212</td>
<td>27,017</td>
</tr>
<tr>
<td><strong>Surplus(Deficit)</strong></td>
<td><strong>1,403</strong></td>
<td><strong>(583)</strong></td>
</tr>
</tbody>
</table>

Source: Audited Financial Statements
The Centre operates at two locations, its head office in St. John’s and its Registry Integrity Unit in Bay Roberts. Figure 1 shows the Centre’s head office in St. John’s.

**Figure 1**

*Newfoundland and Labrador Centre For Health Information*

*Head Office, St. John’s*

Source: Newfoundland and Labrador Centre For Health Information

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**Objectives and Scope**

**Objectives**

The objectives of our review were to:

- determine whether compensation and recruitment practices were in accordance with Government and Centre policy;
- determine whether purchases of goods and services were in accordance with Government and Centre policy; and
- examine Board Governance.
Newfoundland and Labrador Centre for Health Information

Scope

Our review was completed in November 2012 and covered the period April 2007 to November 2012. Our review included an examination of the Centre’s policies and procedures, Board and committee minutes, financial information and file documentation and interviews with Centre officials.

Detailed Observations

This report provides detailed findings and recommendations in the following sections:

1. Compensation and Recruitment Practices
2. Governance

1. Compensation and Recruitment Practices

Overview

For the year ended March 31, 2012, the Centre employed approximately 156 staff with total salaries and benefits of approximately $11.8 million. Salaries and benefits comprised 43.5% of the total expenditures of the Centre for the year ended March 31, 2012.

Figure 2 shows the organizational structure of the Centre as at November 2012, which includes 163 staff.
Section 12 of the *Act* provides the Centre with the power to employ or engage the services of those persons it considers necessary to attain the mandate of the Centre and to determine their respective duties and powers, their conditions of employment or engagement and their remuneration.

The Centre uses public money to compensate employees. Government is, effectively, the ultimate employer of all public employees whether they work for a Government department or a Crown agency. Instances of higher pay for similar work occur as a result of different compensation standards. Higher pay also results in higher pension, severance, and accrued paid leave payouts on retirement or termination of positions.
On June 5, 2012, the Centre was advised by the Minister that Treasury Board has directed that, as an agency, the Centre is to ensure that certain of their compensation policies are consistent with Government policies. It was also advised that if the Centre was not currently compliant, it was to submit an implementation plan which ensures compliance or obtain support from the Minister to seek Treasury Board approval for an exemption to the policy.

The Centre advised the Minister in a response letter that “the Centre has undertaken a review of the Treasury Board policies as outlined in the correspondence. Whereas, the Centre is in compliance with the spirit of all revised policies, some discrepancies exist in specific application”. The Centre indicated that it would “be submitting a request for exemption from policies the Board determines will negatively impact operations. That submission will be made by September 30, 2012”. The Minister acknowledged receipt of this letter.

The Centre did not submit the request for exemption to the Minister by September 30, 2012. Further, in early October, the Centre recommended that the CEO meet with the Deputy Minister of the Department to determine a course of action to address the Treasury Board direction.

This indicates Government’s intention that the Centre should be following Government policy with respect to compensation policies.

In reviewing the Centre’s compensation and recruitment practices we identified issues in the following areas:

A. Job Competitions
B. Upscale Hiring
C. Centre Pay Structure
D. Step Increases
E. Reclassifications
F. Pay in Lieu of Notice
G. Chief Executive Officer Contract of Employment
H. Salary Increases
I. External Consultants Hired
1A. Job Competitions

Introduction

The Human Resources and Strategic Planning Department of the Centre manages recruitment for internal and external hiring, including both temporary and full-time positions.

The Public Service Commission is responsible for the protection of the merit principles in appointment and promotion to permanent positions within the public service. While the Centre does not fall under the jurisdiction of the Public Service Commission, it would be expected that policies and procedures followed by the Human Resources and Strategic Planning Department of the Centre would be consistent with Government policies and procedures because the Centre uses public money to compensate employees.

The Public Service Commission recommends a competition file contain documentation such as screening criteria and details of why applicants were screened out, applicant assessment details outlining the suitability assessment of each applicant interviewed, and a selection referral that outlines the candidate(s) referred to the Chief Executive Officer (CEO)/Deputy Minister for final selection.

The Public Service Commission Staffing Policy Manual states that “the Selection Board shall recommend a maximum of 3 candidates per position to the Chief Executive Officer/Deputy Minister for final selection. The Board may recommend less than 3 candidates if they feel that fewer than 3 candidates are qualified.”

Centre policy requires only the top candidate for referral to the CEO.

No Job Competitions

In 2 of 13 personnel files reviewed, there was no documentation to indicate that a competition had been held for two Director positions.

In one instance, the Manager of Financial Operations position was reclassified to the position of Director of Finance and Project Management Office (PMO) and a new Manager of Finance was subsequently hired.
In the other instance, the Manager of Human Resources and Strategic Planning was reclassified to the position of Director of Human Resources and Strategic Planning and a new Manager of Human Resources was subsequently hired.

In these two instances, managers were transferred to higher-rated positions without conducting job competitions. Government policy requires competitions be conducted for positions filled longer than six months for management and non-bargaining unit positions.

Our review of 10 job competition files identified issues with the completeness of the documentation to support the competition process. Specifically:

- screening assessments were not documented in any of the 10 files. As a result, the Centre could not demonstrate that the most suitable candidates were interviewed; and

- applicant assessments resulting from the interview process were not documented in any of the 10 files. As a result, the Centre could not demonstrate that the most suitable applicant interviewed was selected.

Government policy requires the recommendation of qualified candidates up to a maximum of 3 candidates per position. Centre policy requires the recommendation of only the top candidate for referral to the CEO. As a result, the Centre policy was inconsistent with Government policy.

1B. Upscale Hiring

When a person is hired from outside the organization, Government policy states that the individual start at step 1 of the pay scale. Centre policy requires that the appointment of an external candidate shall be within the salary range determined for the position. During salary negotiations, an effort to hire at step 1 is required. An upscale hire occurs when an external candidate is hired at a step above step 1 on the pay scale of a position.
Each salary scale at the Centre consists of 33 steps, however employees can advance only to step 25. Government policy reserves steps 26 to 33 to accommodate employees who receive involuntary demotions. However, the Centre’s governance policy gives authority to the CEO to upscale hire up to step 33.

Government policy permits upscale hiring where a job competition has yielded only one qualified candidate or no other qualified candidate is willing to accept the position at a lower rate. In situations where upscale appointments are required beyond step 25 of the pay scale, the approval of Treasury Board is required.

Centre policy states: “In the event that a decision is made to upscale hire, a representative of the Human Resources and Strategic Planning Department normally will summarize the relevant information in a memo to the CEO...The CEO will review the information, make a decision and sign off on the Upscale Hire Memo, which is to be placed in the employee’s personnel file.”

Our review of 16 upscale hire memos identified issues with the upscale hire process, as follows:

**No effort to hire at step 1**

An effort to hire at step 1 was not documented in any of the upscale hire memos. The CEO was provided with only the name of the top candidate, and was not advised of any other qualified candidates. Centre officials advised that in an instance where the top candidate attempted to negotiate a salary beyond step 1, no effort was made to determine whether another qualified candidate would accept the position at step 1. This is inconsistent with Centre policy and Government policy.

**Human resources firm paid referral fee**

A Project Manager that was hired had been referred by a human resources consulting firm. While interviews had been completed with 13 applicants, the Project Manager was upscale hired at step 16 and the human resources consulting firm was paid $17,056 as a result of referring the successful candidate. There was no documented effort to determine whether another qualified candidate would accept the position at the same or a lower step and thus avoid the referral fee. This is inconsistent with Government policy.
Upscale hire salary beyond candidate’s request

A Systems Administrator was upscale hired at step 21. Documentation in an upscale hire memo indicated that the candidate was willing to accept an annual salary offer of approximately $5,000 less than the salary that was offered and accepted.

Appointment beyond step 25

In 2 of the 16 upscale hire instances we reviewed, the CEO had approved upscale hires beyond step 25. A Systems Analyst was hired at step 31, while a Technical Applications Analyst was hired at step 33. These upscale hires are in line with Centre policy, but are inconsistent with Government policy.

1C. Centre Pay Structure

Introduction

Prior to the proclamation of the Act, employees of the Centre occupied positions that already had been evaluated and classified by Government. Centre employees occupied positions that were classified as GS (General Service), HL (Management), and HS (Hospital Support Staff).

In March 2008, the Centre officially notified its employees that they had evaluated all positions at the Centre using the Hay Evaluation methodology, and that a new pay structure had been approved by the Board. The adjustments to salaries were retroactive to the date of proclamation of the Act, April 27, 2007 or from the date of hire, whichever was more recent.

Legal advice obtained by the Centre prior to approval of the new pay structure by the Board made reference to the Centre being an agent of the Crown. It suggested that the Centre “may be expected to adopt certain compensation models or standards under the direction of the Government of Newfoundland and Labrador. Such directive or expectation would not, however, amount to a legal restriction on the rights of CHI to independently establish compensation levels for its employees.”
At a Board meeting on January 16, 2008, the Board considered the new classification and salary scales proposed by the Centre’s management, retroactive to the date of the proclamation of the Act, April 27, 2007.

Minutes of the meeting documented that the Board representative designated by the Department felt “the Board should wait for a response from the Minister before proceeding, and therefore would not be able to support a motion to proceed.” Also documented in the minutes was the CEO’s comment that “this is similar to the pharmacy market differential which was not supported by Government. However, if we proceed with implementation and it is taken in the wrong context by Government, there is a fair amount of risk for the CEO.” He agreed with the Board representative from the Department, that the Board should wait for a response from Government. It is also on record that the Board representative from the Department voted against the motion.

Despite the concerns raised by the Board representative from the Department and the CEO, the Board approved the new salary structure.

In a letter dated March 4, 2008, the Chair of the Centre informed the Minister that a special meeting of the Board was called that morning, and that the Board reviewed its decision of January 16, 2008. The meeting resulted in the affirmation by the majority of Board members to proceed with implementation of the new salary scales.

Centre officials indicated that the Minister had not responded to their letter regarding the implementation of the new pay structure.

The creation of the Centre’s new pay structure resulted in a $203,089 increase in total annual salaries as at the date of implementation, March 20, 2008, for the 58 employees of the Centre at that time. These increases were retroactive to April 27, 2007. As is shown in Table 2, six positions accounted for $93,048 (45.8%) of the total increase. All six positions were placed on steps within their new salary scales that allowed more room for salary increases as compared to their previous salary scales. For instance, the Director of Finance and PMO was previously at step 24, 1 step from the top of the pay scale. As a result of the pay structure changes this position received a salary increase of $25,050 and was placed at step 6, near the bottom of the new pay scale. Table 2 provides details of positions for which the annual salary increased by more than $10,000 as a result of the new pay structure.
The Hay Evaluation methodology is a points based job evaluation methodology developed by the Hay Group. The number of points assigned to a position reflects the know how, problem solving and accountability requirements of the job.

We reviewed the salaries assigned to the Hay point totals of the Centre’s positions and compared them to Government salaries with the same point totals. Table 3 provides a comparison, as at October 2012, of the Centre salary scales to Government salary scales for Hay point totals allocated to certain Centre positions. Table 3 shows, in particular, those Hay point totals for which Centre position salaries had the largest variances as compared to Government.
As an example, Table 3 shows that a position with a Hay point total of 1,168, which was a CHI-18 on the Centre’s scale and a HL-32 on Government’s scale, had a difference of $27,185 at step 1, while step 25 had a difference of $35,340.

We would expect that positions with exactly the same Hay points would have exactly the same salary range.

Table 3

Newfoundland and Labrador Centre for Health Information
Comparison between Centre Salary Scales and Government Salary Scales
As at October 2012

<table>
<thead>
<tr>
<th>Hay Point Total</th>
<th>Salary Scales</th>
<th>Pay at Step 1</th>
<th>Pay at Step 25</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Centre</td>
<td>Gov’t</td>
<td>Centre</td>
</tr>
<tr>
<td>1,168 CHI-18 HL-32</td>
<td>$114,885</td>
<td>$87,700</td>
<td>$27,185</td>
</tr>
<tr>
<td>980 CHI-17 HL-30</td>
<td>103,782</td>
<td>83,235</td>
<td>20,547</td>
</tr>
<tr>
<td>824 CHI-16 HL-27</td>
<td>93,976</td>
<td>77,563</td>
<td>16,413</td>
</tr>
<tr>
<td>799 CHI-16 HL-27</td>
<td>93,976</td>
<td>77,563</td>
<td>16,413</td>
</tr>
<tr>
<td>797 CHI-16 HL-27</td>
<td>93,976</td>
<td>77,563</td>
<td>16,413</td>
</tr>
</tbody>
</table>

Source: Newfoundland and Labrador Centre For Health Information, and Government of Newfoundland and Labrador

In total, positions filled at the Centre were being paid in the range of $1.3 million to $1.6 million higher annually than the salaries that would result if the Centre used pay rates that were consistent with Government pay rates for the same Hay point totals.
1D. Step Increases

Introduction

Centre policy provides employees with salary step increases annually. Employees receive an annual increment of three steps in their salary ranges. Step 25 of a salary range is the maximum step for annual step increases. This is consistent with Government policy.

Centre policy provides that, in extraordinary circumstances, the Centre may adjust salary steps for retention purposes. The CEO has the discretion to adjust salaries within a level by moving an incumbent up the scale in the following circumstance:

- if the performance of the incumbent is significantly higher than would be expected with the experience in the role or where the qualifications and work experience have grown through working with the Centre and the value provided by the incumbent is higher than normally expected; and

- where market pressures are resulting in the incumbent pursuing opportunities elsewhere for remuneration purposes.

In such cases, Centre procedures require that a request for salary adjustment must be made by the individual or their director, and the Human Resources and Strategic Planning Department prepare a memo to the CEO that is to be approved by the CEO prior to the adjustment being made. The documentation may include a performance evaluation of the individual that demonstrates their abilities, additional qualifications and documentation of work experience that is out of the ordinary, and/or market information on offers received from other employers.

Government policy does not allow for step progression for retention or performance purposes.
The Centre provided a list of salary adjustments made for retention purposes from the date of proclamation of the Centre’s Act on April 27, 2007 to November 2012. This information is listed in Table 4.

### Table 4

**Newfoundland and Labrador Centre for Health Information**

**Salary Adjustments for Retention Purposes**

<table>
<thead>
<tr>
<th>Scale</th>
<th>Step</th>
<th>Earnings at Step</th>
<th>New Step</th>
<th>Earnings at new Step</th>
<th>Earnings Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Approved April 17, 2008. Retroactive to April 27, 2007.</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Director of Finance and PMO</td>
<td>CHI-17</td>
<td>1</td>
<td>$92,720</td>
<td>6</td>
<td>$98,515</td>
</tr>
<tr>
<td>Director of Research and Evaluation</td>
<td>CHI-17</td>
<td>1</td>
<td>92,720</td>
<td>6</td>
<td>98,515</td>
</tr>
<tr>
<td>Executive Assistant</td>
<td>CHI-8</td>
<td>1</td>
<td>43,360</td>
<td>6</td>
<td>46,070</td>
</tr>
<tr>
<td>Chief Privacy Officer</td>
<td>CHI-16</td>
<td>1</td>
<td>83,960</td>
<td>6</td>
<td>89,205</td>
</tr>
<tr>
<td>Manager of Human Resources and Strategic Planning</td>
<td>CHI-13</td>
<td>1</td>
<td>64,160</td>
<td>6</td>
<td>68,170</td>
</tr>
<tr>
<td>Technical Manager</td>
<td>CHI-12</td>
<td>17</td>
<td>71,080</td>
<td>20</td>
<td>73,300</td>
</tr>
<tr>
<td><strong>Approved December 15, 2009. Retroactive to August 3, 2009.</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Director of Finance and PMO</td>
<td>CHI-17</td>
<td>12</td>
<td>110,743</td>
<td>18</td>
<td>118,044</td>
</tr>
<tr>
<td>Director of Research and Evaluation</td>
<td>CHI-17</td>
<td>12</td>
<td>110,743</td>
<td>18</td>
<td>118,044</td>
</tr>
<tr>
<td><strong>Approved June 30, 2011. Retroactive to May 1, 2011.</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>VP of Health Information Network and Chief Information Officer</td>
<td>CHI-18</td>
<td>9</td>
<td>123,291</td>
<td>12</td>
<td>127,495</td>
</tr>
<tr>
<td>VP of Clinical Information Programs and Quality</td>
<td>CHI-17</td>
<td>14</td>
<td>117,703</td>
<td>22</td>
<td>127,828</td>
</tr>
<tr>
<td>VP of Human Resources and Strategic Planning</td>
<td>CHI-17</td>
<td>7</td>
<td>108,844</td>
<td>15</td>
<td>118,969</td>
</tr>
</tbody>
</table>

Source: Newfoundland and Labrador Centre For Health Information
Newfoundland and Labrador Centre for Health Information

Our review of this information identified the following:

- in the April 3, 2008 Policy and Governance Committee Meeting, the CEO “informed the Committee of a decision to implement the new salary scale at step 6 for four senior management staff and the manager of human resources. The decision was made based on expertise and retention issues.” These salary adjustments were approved on April 17, 2008, and were retroactive to April 27, 2007. Centre officials were unable to provide documentation required by Centre policy to support these salary adjustments.

- A Technical Manager’s personnel file contained no request for salary adjustment. However, there was documentation on file from the CEO giving the employee a 3 step increase on the pay scale because “this is a retention issue and based on their 20 years experience as a provincial leader in health information technology.” This salary adjustment was approved on April 17, 2008 and was retroactive to April 27, 2007. Centre officials were unable to provide documentation required by Centre policy to support this salary adjustment.

- On December 15, 2009, the CEO informed the Payroll Department of salary increases for the Director of Finance and PMO and the Director of Research and Evaluation retroactive to August 3, 2009. He advised in an email, that the adjustment for the Director of Finance and PMO reflects their “additional responsibilities (facilities and risk management) and acknowledgement of their 2IC status,” and that the adjustment for the Director of Research and Evaluation reflects their “successful completion of their PhD and to ensure we retain them as Director of Research and Evaluation given the demand for their skills in the academic and private research environment.” Both of these adjustments were effective less than 1.5 years after the approval of the new pay structure, which had resulted in a $25,050 raise for the Director of Finance and PMO, and a $17,890 raise for the Director of Research and Evaluation.

- On June 30, 2011, the CEO informed the Chair of the Board that he “recommend we move three of our executives up the current scale to more accurately reflect their relative experience and responsibilities as per the Hay Classification system, This is not a reclassification but an upward move on the current Hay Level salary classification.” These three salary increases were retroactive to May 1, 2011. Centre officials were unable to provide documentation required by Centre policy to support these salary adjustments.
Our review of 13 personnel files identified an instance in which an employee was successful in a job competition that resulted in a lateral move on the pay scale. However, the employee negotiated an increase of 3 steps on the pay scale for this lateral move. Centre policy does not address a step increase for a lateral move resulting from a job competition.

This salary increase was inconsistent with Government policy.

1E. Reclassifications

Centre policy requires a Job Fact Sheet to exist for each position within the organization.

Positions may be reclassified as a result of an employee request for reclassification of their position. A position may also be reclassified as a result of an organizational review resulting from findings identified in an audit completed by the Hay Group.

Government policy also allows an employee to request a reclassification of their position. The evaluation of reclassification requests within Government is the responsibility of the Human Resource Secretariat.

Centre employees requesting a reclassification shall first submit a request to the Job Evaluation Committee, which is an internal committee set up by the CEO for the express purpose of evaluating and rating jobs within the Centre. That request shall include a revised Job Fact Sheet and a covering letter stating the reasons why the rating review is requested. Reclassification requests within the Centre are coordinated by the Human Resources and Strategic Planning Department.

A reclassification submission is evaluated to determine whether the hay point total associated with that position should change. The hay point total would then possibly result in the position moving to a new scale.

For the creation of a new position, a Job Fact Sheet must be completed by the manager/director. The position will normally be submitted to the Job Evaluation Committee for rating prior to staffing the position. If the rating cannot be completed prior to staffing, the position will be temporarily benchmarked by the Manager of Human Resources and one member of the Evaluation Committee.
The Centre provided a list of reclassifications that had occurred from March 20, 2008, the date of the implementation of the new pay structure, to October 2012. Our review of this information identified that, of 43 employee requests for reclassification submitted to the Centre’s Job Evaluation Committee, 38 (88.4%) resulted in reclassification.

We were informed by the Human Resource Secretariat that, of 564 requests for reclassification that had been received and reviewed by Government during the 2011 calendar year, only 116 (20.6%) requests had resulted in reclassification.

As a result, the reclassification success rate of the Centre was significantly higher than Government’s reclassification success rate. This is despite the fact that all positions were evaluated in 2008 as part of the new classification system.

Our review of 10 reclassification requests identified issues with incomplete documentation to support the reclassification process. Specifically, 2 of 10 requests for reclassification did not contain cover letters stating why the rating review was requested, which was required by Centre policy. Both of these requests for reclassification were successful.

- On May 8, 2009, the CEO informed an employee that an evaluation review of their role as Manager of Human Resources and Strategic Planning had been completed. A new Job Fact Sheet entitled Director of Human Resources and Strategic Planning was used as documentation for the new position. This salary adjustment was retroactive to December 1, 2008.

- On August 30, 2012 the Acting Board Chair informed the CEO that the Board had formally approved the reclassification of the Vice President of Business Services and Chief Financial Officer. This salary adjustment was retroactive to April 1, 2012.

**1F. Pay in Lieu of Notice**

The Centre’s policy provides for employees who are dismissed without cause to be provided with an appropriate notice or pay in lieu of notice. The period of notice shall depend upon the employee’s age and complete years of continuous service. This is consistent with Government policy.
Terminated employees received amounts higher than which they were entitled

Our review of the files of two dismissed employees identified the following:

- In January 2008, a former temporary full-time employee was terminated and given:
  - a lump sum payment of $7,500;
  - forgiveness from the repayment of $2,330 in relocation expenses that the Centre paid in connection with their return of service agreement; and
  - 4 weeks outplacement pay.

This employee was still within a six-month probationary period. As a result, and as stated in the employee’s termination letter, there was no requirement for the Centre to pay any amount in lieu of notice.

- In March 2010, a former employee was terminated and paid $120,336 for 60 weeks pay in lieu of notice. A calculation based on Centre policy would have resulted in a payment of $78,218 or 39 weeks in lieu of notice.

As a result, terminated employees received amounts higher than which they were entitled based on Centre policy.

1G. Chief Executive Officer Contract of Employment

Introduction

The CEO was appointed in August of 2006, and entered into a five year contract of employment with Government and the Centre.

Terms of the contract called for payment to begin at $110,000 annually and increase by $3,750 in years 2, 3, and 4. Any salary increases in subsequent years were to be determined by the Minister in consultation with the Chair of the Board.

Subject to the approval of the Minister, the CEO was to be paid, on an annual basis, a performance bonus in addition to the base salary. The manner and criteria for determining performance bonuses was to be communicated by the Minister to the Chair of the Board.
If, at any time during the term of the agreement, the parties deem it necessary or expedient to make any alteration or addition to the agreement, they were to do so by means of a written agreement between the Government, the Centre, and the CEO, which was to be supplemental to and form part of the original agreement.

In a letter dated January 20, 2009 to the Minister, the Board Chair requested “an amendment to the NLCHI CEO current Employment Contract.” The Chair also informed the Minister that “The current Employment Contract explicitly allows for alterations to existing terms with the recommendation of the Board Chair and approval of the Minister.”

The Centre was unable to provide a copy of a response to this letter from the Minister. We were informed by the Centre that they had not received a formal response from the Minister.

In June 2009, less than three years into the CEO’s contract, and without written agreement from the Minister, the CEO entered into a contract of employment directly with the Centre. The contract was effective January 1, 2009 for an unlimited time period. Terms of the Contract called for payment to begin at $150,766 annually, which was step 2 on the CEO pay scale. The terms of the contract allowed three steps per year and an annual performance bonus of up to 5% of the base salary. Based on this new contract entered into with the Centre, at the time of our review the CEO was being paid $178,574. In addition, at the top of the scale, the CEO would earn $206,352.

1H. Salary Increases

Table 5 shows the salary increases of members of the Centre’s current senior management team, that have been employed with the Centre since before the transition to the new pay structure. These pay increases are the result of employees being transferred to higher positions, the new salary scales, step increases, reclassifications, and the CEO’s new contract of employment.
Table 5

Newfoundland and Labrador Centre for Health Information
Salary Increases
March 2008 to November 2012

<table>
<thead>
<tr>
<th>Employee</th>
<th>Salary before new pay structure</th>
<th>Current Salary</th>
<th>Salary Increase</th>
<th>% Increase</th>
<th>Salary At the Top of the Scale</th>
<th>Salary Increase</th>
<th>% Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>VP of Human Resources and Strategic Planning</td>
<td>$57,406</td>
<td>$125,835</td>
<td>$68,429</td>
<td>119%</td>
<td>$134,916</td>
<td>$77,510</td>
<td>135%</td>
</tr>
<tr>
<td>VP of Business Services and Chief Financial Officer</td>
<td>73,465</td>
<td>149,350</td>
<td>75,885</td>
<td>103%</td>
<td>149,350</td>
<td>75,885</td>
<td>103%</td>
</tr>
<tr>
<td>Chief Executive Officer</td>
<td>113,750</td>
<td>178,574</td>
<td>64,824</td>
<td>57%</td>
<td>206,352</td>
<td>92,602</td>
<td>81%</td>
</tr>
<tr>
<td>VP of Research and Evaluation</td>
<td>80,625</td>
<td>134,916</td>
<td>54,291</td>
<td>67%</td>
<td>134,916</td>
<td>54,291</td>
<td>67%</td>
</tr>
</tbody>
</table>

As Table 5 shows, the VP of Human Resources and Strategic Planning was being paid $57,406 as the Manager of Human Resources and Strategic Planning before the implementation of the new pay structure. As a result of a reclassification, this employee became the Director of Human Resources and Strategic Planning, and subsequently had an executive title change making them a Vice President, with a resultant salary, as at November 2012, of $125,835.

The VP of Business Services and Chief Financial Officer was being paid $73,465 as the Manager of Financial Operations before the implementation of the new pay structure. As a result of a reclassification, this employee became the Director of Finance and PMO, and subsequently had an executive title change making them a Vice President, with a resultant salary, as at November 2012, of $149,350.

The VP of Research and Evaluation was being paid $80,625 as the Director of Research and Evaluation before the implementation of the new pay structure. This employee subsequently had an executive title change making them a Vice President, with a resultant salary, as at November 2012, of $134,916.

We would expect to see an increase in salaries as a result of the increased number of employees and the additional responsibilities of Centre employees since the proclamation of the Act in 2007. However, the amount salaries have increased and the percentage increase in salaries appears excessive.
11. External Consultants Hired

For the year ended March 31, 2012, the Centre engaged consultants at a cost of approximately $4.8 million. Consulting Fees comprised 17.7% of total expenditures for the year then ended.

Our review of a sample of 21 requests for proposals, and contracts resulting from these proposals, identified the following:

There were 10 instances in which consultants were hired for significant time periods at daily rates ranging from $550 - $1,360. For examples;

- a Security Architect resigned on March 6, 2010. Security Architect positions are classified as CHI-14 and were paid between $293 and $382 per day. The Centre hired a consultant at a rate of $980 per day for 124 days to perform the duties of the resigned employee. The Centre waited approximately 4 months before posting a position to attempt to backfill the vacant position. The cost of the consultant during this 4 month period was approximately $78,400.

- On March 27, 2012 the Centre hired a consultant at a rate of $662 per day for up to 1 year (approximately $172,000 annually) to perform the duties of a Business Analyst. Business Analyst positions are classified as CHI-10 and are paid between $57,308 and $74,501 annually. The reason for hire was due to “recent resignation and transfer of two experienced business analysts.”

- On September 4, 2012 the Centre hired a consultant at a rate of $1,067 per day for up to 1 year (approximately $277,500 annually) to perform the duties of an EHR-Test Lead/Analyst. The reason for hire was that “the project schedule has an immediate need for an experienced EHR Test Lead to begin defining work and processes for Labs testing and therefore the request to engage an external resource. There is an expectation that this contract will transition to a permanent position if viable candidates can be identified.” At the date of our review, the Centre has not yet classified the position of EHR-Test Lead/Analyst.

As a result, the Centre was not cost-effective in decisions to outsource work to consultants rather than filling position vacancies with permanent or temporary salaried hires.
Newfoundland and Labrador Centre for Health Information

Recommendations

The Centre should:

- conduct and document job competitions for all job postings;
- ensure compensation policies are consistent with those of Government;
- ensure Centre policy is followed regarding: an effort to hire at step 1 prior to upscale hiring, reclassification documentation required, and amounts paid to terminated employees; and
- consider whether a position vacancy can be filled with a permanent or temporary salaried hire prior to a decision to outsource work to a consultant.

2. Governance

Overview

The members of the Board are appointed by the Lieutenant-Governor in Council under the Act. This appointment directs that the Board shall exercise all of the powers and discharge all of the duties of the Corporation and administer and manage its business.

The Act states that “a director shall hold office for 3 years from the date his or her appointment becomes effective. Where the term of a director expires, he or she continues to be a director until reappointed or replaced. A director whose term of office has expired is eligible for reappointment.”

We reviewed all Board meeting minutes from April 2007, the inception of the Centre as a Crown agency, to September 2012 and found the following:

No current representative from the Department

The Act states that “one of the directors shall be an employee of the department who shall be designated by the minister.” There had been no representative from the Department on the Board since July 31, 2012.

Lieutenant-Governor in Council had not appointed a chairperson

The Act states that “The Lieutenant-Governor in Council shall appoint one of the directors as chairperson and one as vice-chairperson.” The vice-chairperson had been acting chairperson since September 2011 when the previous chairperson resigned.
As at October 2012, the Centre had not established selection criteria that could be considered by the Lieutenant-Governor in Council when making appointments to the Board.

The former Chief Information Officer (CIO) for Government had been a member of the Board since the first Board meeting as a Crown agency on May 16, 2007. The CIO resigned from the Board in November 2009. There had not been a representative from the Office of the Chief Information Officer since this resignation.

The establishment of selection criteria could assist the Lieutenant-Governor in Council in ensuring that Board members possess an appropriate range of skills and expertise to discharge their duties.

In frameworks for effective governance, it is advised that a CEO should not be a voting member of the Board of Directors. These frameworks provide that an effective Board/CEO relationship is built on clear, well-defined roles and responsibilities. The Board of Directors creates the vision, direction and policies for the Centre. The CEO, as a hired employee, implements those policies according to Board directives.

The CEO of the Centre is a voting member of the Board.

**Recommendations**

The Department should:

- provide a designate to be the departmental representative on the Board;
- ensure that a chairperson is appointed by the Lieutenant-Governor in Council to fill the vacancy that has existed since September 2011; and
- consider current frameworks for effective governance and whether the CEO of the Centre should be a voting member of the Board.

The Centre should recommend selection criteria that could be considered by the Lieutenant-Governor in Council when making appointments to the Board.
Corporation’s Response

Overview

The Newfoundland and Labrador Centre for Health Information (the Centre) is pleased to have the opportunity to respond to the Auditor General’s findings and recommendations presented in this report.

The Centre for Health Information Act (the Act) was proclaimed in April 2007 and provides the Centre with the legal authority to operate as a freestanding Crown Agency. The Act enables the Centre to conduct business as a freestanding agent of the Crown in accordance with Centre-established policies and practices. In fact, on June 20, 2007, the day the Act was proclaimed, the official press release from Government stated, in part, “The evolution of the Centre’s unique mandate to provide health information and develop the electronic health record warrants the centre having its own legal structure and arms-length status. As an arms-length organization, the centre will have enhanced access to federal funding and revenue through private partnerships. This will enable it to attract and obtain additional investment dollars to further develop and implement the provincial health information infrastructure.” Since June 2007 and now in its sixth year, the Centre has established itself among the leading health informatics entities in Canada. The Centre’s project execution and operations delivery models were based upon industry best practices, including recruitment and compensation policies designed to attract and retain the best possible people to deliver execution certainty and operations integrity.

As part of the Centre’s due diligence and governance process after proclamation of the Act, the Centre sought and obtained an external legal opinion confirming its legislative authority to determine its own policies and procedures. More recently, a second and separate external legal opinion has again confirmed the Centre’s legal authority to determine its own policies and procedures. Of particular relevance to the Auditor General’s report is the fact that the Act provides the Centre with the legal authority to engage employees according to its needs in order to achieve its legislated mandate, including recruitment and compensation. Specifically, Section 12 of the Act states “The centre may employ or engage the services of those persons it considers necessary to attain the object in section 4 and determine their respective duties and powers, their conditions of employment or engagement and their remuneration.” In short, the Centre is the employer.
The Centre has established sound organizational practices and policies, including those related to recruitment and compensation, and has abided by those throughout the period of the Auditor General’s review. The Centre’s practices and policies were developed based on industry best practices as well as on Treasury Board and Eastern Health policies. These policies were modified where necessary to support achievement of the Centre’s strategic objectives and to meet the unique and challenging requirements of the Centre. The Centre’s compensation levels were developed using Nalcor (NL Hydro) job rates and a pay policy developed with external consulting support and comparative Atlantic Canada benchmarks provided by the Hay Group. The internationally recognized Hay System for position classification was used to establish equity.

Subsequent to direction from the Minister of Health and Community Services, the Centre has been engaged in ongoing dialogue regarding alignment of the Centre’s compensation policies with those of government. The majority of Centre policies already align with those of government and the Centre will, in consultation with the Department of Health and Community Services, develop a roadmap by March 31, 2013 to address alignment and consistency of Centre compensation policies and practices with those of government.

It is also important to note that the Centre’s employee base has expanded significantly in recent years as a result of expanding responsibilities for the organization. During the time period covered by this report, the Centre was undergoing rapid growth in a highly competitive health information management and technology (IMT) environment while in the middle of delivering highly complex provincial health information system initiatives.

1. Compensation and Recruitment Practices

With the above in mind, the Centre offers the following in response to the Auditor General’s four recommendations related to compensation and recruitment practices:

a. The Centre should conduct and document job competitions for all job postings.

The Centre conducts and documents job competitions for all job postings in accordance with industry best practice. The two positions identified in this report as having no job competitions were, in fact, originally hired using the appropriate job competition process. Both positions subsequently evolved in scope and responsibility as a result of the organization’s rapid growth.
Regarding other items identified in this report related to the job competition process (competition process files and selection referral), the Auditor General has examined the Centre’s activities according to the provincial government Public Service Commission (PSC) policies rather than the Centre’s own policies. The Centre is committed to maintaining its sound recruitment practices in accordance with Centre policy and will work to address alignment of its compensation policies with those of government.

b. The Centre should ensure compensation policies are consistent with those of government.

As noted previously, the Act provides the Centre with the legal authority to establish its own compensation policies. Specifically, section 12 of the Act states that “The Centre may employ or engage the services of those persons it considers necessary to attain the object in section 4 and determine their respective duties and powers, their conditions of employment or engagement and their remuneration.”

In accordance with this legislation and as the employer, the Centre has established its own compensation policies aligned with industry best practices and reflective of the spirit of government policy. Any adjustments to those compensation practices were based upon external consultations and advice, founded in industry best practice research, and designed to enable effective recruitment and retention of qualified personnel. The Centre also regularly engages in compensation reviews using independent industry expertise to maintain integrity of its system. The Centre has acted consistently in this practice since proclamation as a freestanding Crown Agency. The Centre’s work requires specific skill sets that are in high demand, therefore maintaining competitiveness and flexibility in remuneration is essential.

The majority of the Centre’s policies are aligned with government’s. As stated previously, consultations are currently underway between the Centre and the Department of Health and Community Services to develop a road map by March 31, 2013 that will address alignment of the Centre’s compensation policies and practices with those of government.

Regarding the reference for approval despite concerns of some board members, the Board acted reasonably and within legal authority, balancing government consultation while acting to address the risk to staffing by making the adjustments noted.
c. **Ensure Centre policy is followed regarding: an effort to hire at step 1 prior to upscale hiring, reclassification documentation required, and amounts paid to terminated employees.**

The Centre focuses on hiring qualified and suitable candidates for available positions and endeavours to hire at Step 1 prior to any upscale hiring. However, given the complex environment and unique skill sets required within the Centre, there are circumstances where upscale hiring is required. For example, hiring above step 1 can allow the Centre to hire a specific expertise or skill set in-house and mitigate the need for external consultants that step 1 would otherwise prevent. With any upscale hire, the CEO is provided with appropriate and thorough documentation for review.

With regard to the candidate willing to accept lower salary than ultimately offered, that is a matter of documentation. The candidate originally expressed willingness to accept a lower salary amount; however the candidate subsequently requested a higher amount during the negotiation process following review of the complete benefits package. The subsequent request was not formally documented. The Centre will improve its documentation of such as part of the hiring process. In the same vein, the Centre acknowledges the Auditor General’s recommendation related to reclassification documentation and will work to improve its reclassification documentation and step adjustment documentation processes accordingly.

With regard to other items noted related to upscale hiring, including appointments beyond step 25 and referral fees, the Centre acted appropriately in accordance with Centre policy, pursuant to the Act.

*In addition, the reclassification approval rate resulted from organization’s evolving structure and growth rate, which required re-evaluation of numerous positions and reflected a recommendation from the Hay Audit.*

*With respect to amounts paid to terminated employees, in both cases noted within the report extenuating circumstances applied and the Centre sought and followed legal advice.*
d. **Consider whether a position vacancy can be filled with a permanent or temporary salaried hire prior to a decision to outsource work to a consultant.**

The Centre treats the hiring of external consultants seriously and provides due consideration whenever outsourcing work. The Centre operates in an intensive health IMT project environment that requires unique skill sets that are in high demand in most jurisdictions across Canada, as well as globally. As such, qualified resources may not always be available for temporary or permanent hire. Furthermore, the Centre assesses the feasibility of engaging a consultant versus hiring an employee by balancing cost factors with other critical considerations including the assumption of risk for the organization, project delivery timelines, and the value of contracted consultants having access to additional team members with similar expertise if/when required. The Centre will continue to provide due consideration to appropriateness and availability of salaried hires prior to engaging consultants.

Regarding the Security Architect position referenced in the report, the consultant hired was not a direct replacement for the resigned Security Architect. The subsequent delay in posting was due to internal departmental restructuring happening at that time and the new position posted and filled reflected the new requirements of the department/organization, rather than being a direct replacement for either the original position or the consultant referenced.

Regarding the two other consultants referenced in the report (Business Analyst and EHR-Test Lead/Analyst), both were experienced individuals hired to meet project timelines and mitigate immediate risks for the organization. Furthermore, the Centre strives to obtain knowledge transfer as part of any consultant engagement in order to minimize future reliance on external resources.

**Additional Compensation & Recruitment Considerations**

**Direction from Treasury Board on Consistency of Compensation Policies.**

As noted previously, the Centre is a freestanding Crown Agency with the legal authority to establish and abide by its own policies. It is also important to note that the majority of the Centre’s current policies align with and/or reflect government policies. The Centre has previously responded to government on this matter as it relates to compliance with Treasury Board policies. Regarding the June 5, 2012, correspondence referenced by the Auditor General, the Centre originally expressed intention to request exemption. However, subsequent to direction received from the Minister of Health and Community Services and pursuant to its most recent legal
opinion, the Centre has been engaged in ongoing dialogue regarding alignment of the Centre’s compensation policies with those of government. The Centre will, in consultation with the Department of Health and Community Services, develop a road map by March 31, 2013 to address alignment and consistency of Centre compensation policies and practices with those of government.

**CEO Entered New Employment Contract with the Centre.** The creation of a new employment contract was not done in isolation of the provincial government, rather involved considerable discussion with the Department of Health and Community Services. Again, the Board acted reasonably and within legal authority, balancing government consultations with acting to ensure the longer-term stability of the organization.

**Salary Increases.** Regarding the salary increases for members of the senior executive team, executive salaries are based on and in line with industry benchmarks and market reviews are conducted annually that incorporate third-party information.

2. **Recommendations: Governance**

   a. **The Centre should recommend selection criteria that could be considered by the Lieutenant-Governor in Council when making appointments to the Board.**

   The Centre acknowledges the recommendation by the Auditor General and will formally set out the selection criteria for the Lieutenant-Governor in Council’s consideration when making appointments to the Board in the future.

**Conclusion**

The Centre has the legal authority to determine its own policies and procedures. Practically, the unique mandate of the Centre requires that policies and procedures take account of industry best practices provincially, regionally, and nationally in order to attract and retain the right people to deliver execution certainty and operations integrity.
The Centre is confident in its organizational policies and procedures, including those related to recruitment, compensation, and governance. The Centre has endeavoured to adhere to industry best practices, seek appropriate legal opinion, and follow the provincial government’s lead where appropriate. The Centre is committed to improving its operations where acknowledged above and looks forward to continuing operations as a freestanding Crown Agency. As noted previously, the Centre has been engaged in ongoing dialogue with the Department of Health and Community Services regarding alignment of the Centre’s compensation policies with those of government. The Centre will, in consultation with the Department of Health and Community Services, develop a road map by March 31, 2013 to address alignment and consistency of the Centre’s compensation policies and practices with those of government. The Centre will remain focused on the important goal of improving health through quality health information and ensuring it has the ability to deliver upon its mandate.

Department’s Response

Appointments to the Board for the departmental representative and chairperson are currently under review and are expected to be finalized shortly. As well, the Department will consider current frameworks for effective governance and determine whether the CEO of the Centre should continue to be a voting member of the Board.