

# REPORT OF THE AUDITOR GENERAL

To the House of Assembly



On Reviews of Departments and Crown Agencies

For the Year Ended  
31 March 2006

## **Auditor General of Newfoundland and Labrador**

**Location:** 2<sup>nd</sup> Floor  
15 Dundee Avenue  
Mount Pearl, NL

**Mail:** P.O. Box 8700  
St. John's, NL  
A1B 4J6

**Telephone:** (709) 729-2695  
**Fax:** (709) 729-5970  
**E-Mail:** [auditorgeneral@gov.nl.ca](mailto:auditorgeneral@gov.nl.ca)  
**Web:** [www.gov.nl.ca/ag](http://www.gov.nl.ca/ag)

### **Mission Statement**

*The Office of the Auditor General serves the House of Assembly by providing independent examinations of Government and its entities.*

*As legislative auditors, we audit financial statements and other accountability documents, evaluate management practices and control systems, and determine compliance with legislative and other authorities.*

*Our purpose is to promote accountability and encourage positive change in the stewardship, management and use of public resources.*



## Office of the Auditor General of Newfoundland and Labrador

### Head Office

15 Dundee Ave., Mount Pearl  
Box 8700 ♦ St. John's, NL ♦ A1B 4J6  
T: 709-729-2695 ♦ F: 709-729-5970  
Email: [adgopp@gov.nl.ca](mailto:adgopp@gov.nl.ca)

### Auditor General

John L. Noseworthy, CA  
T: 709-729-2700  
Email: [jnoseworthy@gov.nl.ca](mailto:jnoseworthy@gov.nl.ca)

### Regional Office

76 Mount Bernard Ave., Corner Brook  
Box 2006 ♦ Corner Brook, NL ♦ A2H 6J8  
T: 709-637-2295 ♦ F: 709-637-2595

---

31 January 2007

The Honourable Harvey Hodder, M.H.A.  
Speaker  
House of Assembly

Dear Sir:

In compliance with the *Auditor General Act*, I have the honour to submit herewith, for transmission to the House of Assembly, my Report on Reviews of Departments and Crown Agencies for the year ended 31 March 2006.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John L. Noseworthy".

**JOHN L. NOSEWORTHY, CA**  
**Auditor General**

## TABLE OF CONTENTS

Chapter		Part	Page
1	<b>Reflections of the Auditor General</b>		1
2	<b>Comments on Audits and Additional Examinations</b>		
	<b>Legislature</b>		
	• Constituency Allowance Claims	2.1	19
	• Office of the Chief Electoral Officer	2.2	37
	<b>Executive Council</b>		
	• Monitoring Agencies of the Crown	2.3	63
	<b>Department of Education</b>		
	• College of the North Atlantic	2.4	67
	• Monitoring School Boards	2.5	119
	<b>Department of Finance</b>		
	• Liquor Licensing and Enforcement	2.6	127
	• Monitoring Expenditures of the Consolidated Revenue Fund	2.7	145
	• Newfoundland Government Fund Limited	2.8	165
	<b>Department of Government Services</b>		
	• Superintendent of Pensions	2.9	195
	<b>Department of Health and Community Services</b>		
	• Monitoring Health Care Boards	2.10	215

---

## TABLE OF CONTENTS

---

<b>Chapter</b>		<b>Part</b>	<b>Page</b>
<b>2</b>	<b>Department of Justice</b>		
	• Community Corrections	2.11	223
	• Royal Newfoundland Constabulary	2.12	245
	<b>Department of Municipal Affairs</b>		
	• Job Creation Program	2.13	271
	<b>Department of Natural Resources</b>		
	• Agriculture Policy Framework Initiative	2.14	293
	<b>Department of Tourism, Culture and Recreation</b>		
	• Recreation Grants	2.15	319
	<b>Department of Transportation and Works</b>		
	• Provincial Roads Maintenance and Construction	2.16	337
<b>3</b>	<b>Update on Prior Years' Report Items</b>		355
<b>4</b>	<b>Special Reports</b>		481

**CHAPTER  
1  
REFLECTIONS OF THE  
AUDITOR GENERAL**



The following comments are made further to my reviews of various Departments and Crown agencies for the year ended 31 March 2006. The report covers a variety of matters and is provided to the Members of the House of Assembly for their consideration. The purpose of the Office of the Auditor General as outlined in the Mission Statement is “...to promote accountability and encourage positive change in the stewardship, management and use of public resources.” Corrective action on the issues identified in this report will further that goal.

### House of Assembly

#### 1. Constituency Allowance Claims - (Part. 2.1)

I issued a number of reports identifying excess constituency allowance claims totalling \$1,586,573 for five members of the House of Assembly. The excess claims relate to Edward J. Byrne (\$467,653, 1999 to 2004), Randy Collins (\$358,598, 2000 to 2006), Wally Anderson (\$344,465, 1998 to 2006), James Walsh (\$298,571, 1999 to 2004) and Percy Barrett (\$117,286, 1998 to 2004).

I also issued a report questioning the legitimacy of at least a portion of payments totalling \$2,651,644 made from April 1998 to December 2005, to three companies (Zodiac Agencies, JAS Enterprises Limited and Cedar Scents International). I also reported on payments totalling \$170,401 which were made during the period April 2001 through to December 2005, to Unique Keepsakes, a company owned by the former Director of Financial Operations at the House of Assembly and/or his spouse.

Financial controls at the House of Assembly establishment were weak as follows:

(a) Financial controls effectively eliminated

In 2000 the Commission of Internal Economy (IEC) directed that the Auditor General's Office cease performing audit work and the *Internal Economy Commission Act* was amended so that supporting documentation was not required to be provided to the Comptroller General. As a result, expenditures at the House of Assembly were not subject to the same controls as Government expenditures.

(b) Weaknesses in internal controls

The former Clerk of the House of Assembly did not adequately fulfill their administrative responsibilities relating to financial controls. As a result, there were weaknesses in financial controls including no segregation of duties, no requirement for specific original documentation, and inadequate monitoring of payments to Members.

---

## Reflections of the Auditor General

---

Other issues identified at the House of Assembly establishment included:

(a) Inaccurate IEC annual reports tabled in the House of Assembly

The actual constituency expense amount for Members in the annual reports, for the most part, did not agree with the information in Government's Financial Management System (FMS). Even though it has now been identified that some Members claimed in excess of what was approved by the IEC, the reports incorrectly showed that all Members' claims were within the approved limits. As a result, Members of the House of Assembly and the public were provided with incorrect information.

(b) IEC did not publicly disclose additional allowances to Members

In May 2004, the IEC made a decision to pay each Member of the House of Assembly \$2,875. Minutes of IEC meetings, which are tabled in the House of Assembly, are so vague on this matter that it is not possible for the public to know that each Member was to receive an additional allowance of \$2,875. Additional allowances were not an unprecedented occurrence and were made a number of times in prior years. Information on the dates and amounts was not available because the minutes of IEC meetings were so vague. The former Clerk of the House of Assembly indicated that, in prior years, the IEC suggested to him that the IEC minutes should be kept vague on financial matters such as additional allowances to Members.

(c) Non-compliance with the *Financial Administration Act*

The *Financial Administration Act* was contravened in two instances: (i) allowances and assistance expenditures were charged in error to other activities; and (ii) actual allowances and assistance expenditures during the 2006 fiscal year of \$5,648,119 exceeded the amended estimate of \$5,418,100 by \$230,019.

## 2. Office of the Chief Electoral Officer (OCEO) - (Part 2.2)

There were a number of significant concerns with the management practices followed by the OCEO. We found instances of conflict of interest, non-compliance with the *Public Tender Act*, significant amounts of overtime paid to staff without any indication that alternate arrangements had been considered, overtime not approved in accordance with Government policy, inaccurate accounting records and lack of internal controls. For example:

(a) Conflict of interest over hiring

Contrary to the *Conflict of Interest Act, 1995*, 3 of the individuals employed as temporary employees by the Office of the Chief Electoral Officer were direct dependents of 3 OCEO employees. In addition, while not direct dependents of OCEO employees, 8 other temporary employees were related to 6 OCEO employees. Furthermore, contrary to sound management practices, there were no advertisements, no competitions held and no other objective process for the hiring of any temporary employees.



---

## Reflections of the Auditor General

---

### (b) Conflict of interest over purchasing

There was a conflict of interest regarding the former Director of Financial Operations of the House of Assembly and certain financial transactions with the OCEO in that the former Director, whose company (either owned by him and/or his spouse) did business with the OCEO, approved most of the OCEO expenditures. From 1 April 2002 to 31 March 2004, the OCEO purchased \$13,829 worth of items from the former Director's company. The items purchased included such things as Newfoundland art and silver key chains.

### (c) Excessive overtime and overtime without required approval

Overtime payments totalling \$295,384 were paid to the four permanent staff in the last four years. Over the four year period, one employee received 70% of their regular annual salary in overtime. Overtime payments totalling \$201,718 were also paid to temporary employees in the last four years. Overtime was not approved in accordance with Government policy and there was no evidence that alternatives to the current staffing arrangements had been considered.

### (d) Expenditure issues and non-compliance with the *Public Tender Act*

There were 6 instances totalling \$213,265 where the OCEO did not comply with the *Public Tender Act*. There was an instance where an employee's travel was not in accordance with the approved Journey Authorization, we found excessive use of cellular telephones, and employees were incorrectly reimbursed 100% instead of 50% for education expenditures.

### (e) Inaccurate accounting records and lack of internal controls

Amounts were charged to incorrect accounts, land line telephone costs were incorrectly charged to the House of Assembly, and arbitrary amounts were charged by the House of Assembly for photocopiers. Internal controls for payment processing were weak in that many invoices were approved for payment by staff at the House of Assembly without any review of supporting documentation.

## College of the North Atlantic - (Part 2.4)

There are significant concerns with expenditures and human resource practices at the College of the North Atlantic. A lack of adherence to Government policy, particularly in the human resources area, has led to questionable transactions and resulted in instances of inappropriate expenditures of public funds.

### (a) Non-compliance with compensation practices

The College is not always complying with Government's compensation practices. For example, we identified unauthorized cash bonuses (\$237,000), inappropriate salary differentials (\$45,000), inappropriate salaries relating to appointments, step increases and promotions, unapproved and questionable overtime and inappropriate accumulation and use of leave.

---

## Reflections of the Auditor General

---

### (b) Non-compliance with recruitment policies

The College is not complying with Government's recruitment policies. We found that required job competitions were not always conducted and managers were appointed upscale without the required documented approval of the President.

### (c) Qatar Inappropriate gifts and compensation practices

There were 6 employees who were in a conflict of interest regarding the inappropriate retention of significant monetary gifts (some at \$20,000 US). There were also 2 Board members who, contrary to Board policy, accepted monetary gifts of \$20,000 US. In addition, none of the 164 employment contracts had been reviewed by the Department of Justice or approved by Treasury Board and employees earned significantly more salary and received increased benefits and pensions.

### (d) Expenditure issues

There were issues with expenditures such as inadequate approvals and non-compliance with Government and College policy. For example, professional development expenses (\$18,640) were not approved in advance, inappropriate car allowances (\$3,400) were paid, senior employee travel was not always properly approved, retirements gifts were purchased for non-executive pay plan employees, ineligible relocation expenses (\$5,484) were paid, and four consulting contracts (\$509,003) were awarded without inviting proposals.

### (e) *Public Tender Act* contravened

Contrary to the *Public Tender Act*, there were 3 purchases totalling \$9,136,123 where no public tender was called, while in 2 other instances totalling \$68,478, the Minister of Government Services (after December 2004 the Government Purchasing Agency) was not informed of the sole source exceptions and therefore the exceptions could not be tabled in the House of Assembly.

### (f) Capital assets inadequately controlled

The College does not adequately record, monitor and safeguard its capital assets. The College's capital asset ledger was not accurate, not all moveable electronic equipment could be located, some portable computers were kept at employees' homes, and monitoring information on 58 College vehicles was not accurate.

### (g) College's Labrador campus lease

Contrary to Government policy, the College entered into a lease arrangement and paid \$120,000 (4 months July 2001 to October 2001 at \$30,000 per month) more than the original lease (\$50,000 per month) the former Department of Works, Services and Transportation had considered appropriate. Although at the direction of the Department, payment of the increased amount was stopped, the landlord continued to bill at the increased lease amount. From January 2000 to August 2002, there was no public tender or approval from Cabinet for the lease.

### Newfoundland Government Fund Limited - (Part 2.8)

#### 1. Investment in eligible projects

Newfoundland Government Fund Limited (NGF) invested in two major projects - construction of a hospital in Bonne Bay (\$9.4 million) approved in September 1999 and construction of a school in Lawn (\$4.73 million) approved in August 2002. The estimated loss on these two projects totals \$1.449 million (\$625,000 for the hospital project and \$824,000 for the school project).

##### (a) Bonne Bay hospital project

In November 1999, NGF provided Hospital Leasing Services Inc. (a company related to Marco Services Limited) with its 1<sup>st</sup> advance on a \$9.4 million loan to construct a hospital. The hospital was constructed by Marco Services Limited. In November 2001 the hospital board entered into a 20 year lease arrangement with the company. The board was required to pay \$761,000 per annum along with all operating and maintenance costs (except insurance).

Hospital Leasing Services Inc. was to repay the \$9.4 million loan to NGF within 5 years (i.e. 19 December 2005). However, on 29 November 2004 the company defaulted on its initial \$5 million payment to NGF. At that point, the company had transferred most of the accumulated surplus cash (approximately \$829,000) to Marco Services Limited, a related company of Hospital Leasing Services Inc., without the approval of NGF.

NGF never requested audited financial statements until after the company defaulted on its loan. The financial statements would have shown construction costs of \$10.124 million, \$724,000 in excess of the authorized cost. This \$724,000 and interest of \$105,000 i.e. \$829,000 was transferred to Marco Services Limited. The bankruptcy relating to the default was not invoked until May 2005 and therefore only a portion of the \$829,000 could be challenged. At December 2006, the NGF Board had held no formal meetings since December 2004.

##### (b) Lawn school project

In September 2002, NGF provided School Leasing Services Inc. (a company related to Marco Services Limited) with its 1<sup>st</sup> advance on a \$4.73 million loan to construct a school. The school was constructed by Marco Services Limited. In May 2003 the former Newfoundland and Labrador Education Investment Corporation entered into a 20 year lease arrangement with the company. The Corporation was required to pay \$383,000 per annum along with all operating and maintenance costs (except insurance).

School Leasing Services Inc. is to repay the \$4.73 million loan to NGF within 5 years (i.e. 6 September 2007). As of 30 April 2006, the company, without the approval of NGF, had transferred \$485,000 of accumulated cash to Marco Services Limited as partial settlement of the \$675,000 payable related to increased construction costs. The \$190,000 balance owing to Marco Services Limited is reported in School Leasing Services Inc.'s financial statements for the year ended 30 April 2006.

### 2. Non-compliance with *Immigration Regulations, 1978* and other authorities:

- 74 units were not invested in eligible businesses within 9 months of being closed from the escrow account (e.g. 12 were not invested until 29 months later). To compensate, NGF increased the interest rate from 2% to 5% for these investors - estimated to cost an additional \$1,027,000;
- 3 units invested in the hospital project were not invested for the required 5 years;
- NGF did not provide financial statements by 20 May in 2001, 2004 and 2005. In fact, financial statements for 2004 are not yet finalized while financial statements for 2005 have yet to be prepared;
- Contrary to the direction from Treasury Board dated 19 April 2005, Executive Council has not been advised as to any shortfall between the amount needed to repay immigrant investors and the proceeds of the Bonne Bay hospital, and NGF has not consulted with Citizenship and Immigration Canada and obtained a legal opinion on liabilities to investors in escrow; and
- Although not a compliance matter, 11 investors in escrow for as long as 8 years, have complained that their funds have not been invested in eligible businesses.

### Community Corrections - (Part 2.11)

There were issues with the Community Corrections Program of the Department of Justice in terms of case management in that risk assessments were not always completed for offenders and offenders were not always receiving the proper level of supervision. In particular:

#### (a) Inadequate risk assessment

There were issues with risk assessments for 11 of 66 offenders reviewed. Issues included 9 which were not completed within the required time frame, 1 which was never completed and 1 (a property offence) which was completed incorrectly, resulting in a medium risk level instead of high and therefore less supervision than required.

#### (b) Offenders not adequately supervised

There were issues with how 19 of 66 offenders reviewed were supervised. Issues included 17 with insufficient supervision (1 sexual assault, 2 domestic assaults, 3 other assaults, 6 property offences, 3 traffic offences and 2 drug offences), 1 where the selected supervision for a domestic assault offence was lower than required and 1 where documentation was insufficient to determine whether the offender was being supervised properly.

In addition, there were issues with how 5 of 33 offenders were designated as administratively inactive and no longer being supervised in that there was no documentation on file to support their designation.

---

## Reflections of the Auditor General

---

### (c) Progress reviews

There were issues with progress reviews for 5 of the 66 offenders reviewed. Issues included 4 reviews not completed within the required timeframe and 1 which was never completed.

### (d) Inadequate case planning

There were issues with case plans for 24 of the 66 offenders reviewed. Issues included 16 which did not adequately reflect the conditions in the order or target the relevant criminal factors, 3 which were never completed, 3 which did not reflect the completion of a secondary risk assessment, 1 which did not reflect the completion of a progress review and 1 which was not completed within the required timeframe.

### (e) Forms not available

The Department could not provide completed Acknowledgement of Court Order forms for 16 of the 66 offenders reviewed.

### (f) Information system not fully utilized

Information contained in the System was not current. Reports produced in March 2006 indicated that the following were not completed - 103 progress reviews, 64 primary risk assessments and 70 case plans. Although some of these may have been completed, officials indicated that the System may not have been updated. As a result, management does not have access to complete information.

### (g) Non-compliance with policy

The Department is not complying with Government's policy on the hiring of consultants because no public proposal calls were made and authority from the Lieutenant-Governor in Council for three contracts in excess of \$100,000 was not requested. Furthermore, the Department paid for services that were never received. The Department did not adequately verify the accuracy of invoices and, as a result, overpaid a contractor \$5,466.

## **Provincial Roads Maintenance and Construction - (Part 2.16)**

Our road system consists of approximately 9,000 kilometers of roadway comprised of 7,000 kilometers of paved road and 2,000 kilometers of gravel road. In 1996, we concluded that the Department of Transportation and Works was not adequately managing the Province's road system. A decade later in 2006, we have come to the same conclusion.

### (a) No formal program to assess physical condition of Provincial road system

There are a number of scientific approaches available to assess the extent of wear of the roads such as road roughness, cracking, and rutting. However, the Department does not have a formal program in place for assessing the physical condition of the Province's road system. Instead, we have visual inspections - which are not always documented and there are no specific inspection guidelines.

(b) No preventative or preservation maintenance

The Department does not focus its road maintenance expenditures on preventative or preservation analysis or maintenance activities. Maintenance is reactive and not proactive.

Annual maintenance costs (excluding snow and ice control) incurred over the last 6 years has on average remained relatively constant at approximately \$20.8 million. Given the increasing age of the Province's roads and the lack of additional funding for road maintenance, the condition of the Province's roads will deteriorate at an accelerated rate which will negatively impact their maximum useful life.

(c) Funding and expenditures inadequate to complete road construction projects

The amount of capital funding approved in the annual budget is significantly less than the amount identified and requested by the Department to fund construction projects. From 2002 to 2005 capital expenditures were reduced by 55% and totalled only \$36 million in 2005. In 2006, capital expenditures increased to \$58 million. The Department has estimated that it would require approximately \$288 million to bring the Province's roads to a "good condition" rating.

Federal cost-shared funding for road construction has decreased significantly over the last six years from \$52.3 million for 2001 to \$0.2 million for 2006. This has had a significant impact on the level of capital expenditure for road construction.

(d) No Province-wide risk assessment / No long-term plan in place

There is no Province-wide risk assessment or priority basis for what work is performed using the capital funding provided. Instead, capital funding is allocated to regions based on the number of kilometers. There is no long-term plan currently in place to address the timing of capital funding and the priority of the work.

(e) The Highway Maintenance Management System (HMMS) is not up to date

The Department's HMMS was introduced in 1995. Although the system establishes Departmental unit and cost standards for each type of maintenance activity, the standards need to be updated and the system is not being used to effectively plan and monitor maintenance expenditures.

### **Superintendent of Pensions - (Part 2.9)**

The Superintendent of Pensions (Department of Government Services) monitors pension plans to ensure compliance with legislation and to safeguard the accrued pension entitlements of plan members. Up to 21 March 2006, 175 pension plans were registered with the Province. These plans represent 72,955 active members and have a total pension liability of \$10.6 billion.

---

## Reflections of the Auditor General

---

The Department is not doing an adequate job of monitoring the activities of pension plans. For example:

(a) No formal risk assessment process

There is no formal risk assessment process to identify pension plans which may not be complying with legislation or which may not have sufficient assets to provide pension benefits to members when they retire. In particular, there are no benchmarks in place for such ratios as minimum rate of return on investments, funding ratios and assets per member. We found the following at March 2006:

- the one year rate of return on investments for 69 of the 175 plans, representing 2,559 members was below 5% including 8 plans (24 members) that had a negative return;
- approximately \$5.1 billion or 60% of the public sector and \$163.8 million or 9% of the private sector pension liability for defined benefit pension plans was unfunded; and
- 15 of the 105 defined contribution plans, representing more than 85% of the members, had accumulated an average of less than \$10,000 per member.

These findings highlight the need for the Department to develop a formal risk assessment process to determine what level of follow-up action, such as enquiries, inspection or a compliance audit is required.

(b) No financial statements, inspections or audits

There is no requirement for Administrators to submit financial statements (either audited or unaudited) and, although the *Pension Benefits Act, 1997* gives the Superintendent the authority to carry out “*periodic or other inspections and audits of registered pension plans,*” the Department has never conducted either an inspection or an audit.

(c) Inaccurate database

The Department does not have criteria for staff to use as a guideline for identifying information on the Annual Information Return which would be considered unusual and require follow-up.

There were instances where information was incorrectly entered in the database, or where obvious incorrect information was submitted by Administrators and entered in the database. These anomalies were not identified by Department officials which brings into question the adequacy of monitoring activities in terms of data entry validation, and the ability to use the database to analyze pension plan performance.

### Agriculture Policy Framework Initiative - (Part 2.14)

In May 2003, the Province entered into a 5 year \$30.1 million (60% Federal and 40% Provincial) agreement - Agriculture Policy Framework Initiative (APFI) for the development of agriculture in the Province.

There are significant issues with the APFI administered by the Department of Natural Resources related to instances where documentation was not on file to support payments; not all required inspections were performed; not all required inspection information was on file; no compliance audits were conducted; final project reports were not always required; and significant funding was provided to related parties.

#### (a) Weaknesses in assessment and approval of projects

There is no documented policy to guide the Implementation Committee in approving funding for related businesses with common ownership. This is significant in that of the total funding of \$11.3 million approved for 304 producers from 1 April 2003 to 31 October 2005, the amount approved for related producers was \$2.3 million for 12 producers. Therefore, 20% of the funds were paid to 4% of producers, all of which were related applicants.

There are no specific criteria outlining under which circumstances the Committee may consider approving excess funds. As a result, projects with similar circumstances may or may not have excess funds approved.

Provincial Government projects are funded differently than projects for producers. The maximum level of funding which can be approved for producers is 50% while Government projects are funded 100% of project costs. As a result, there is less funding available for projects proposed by producers.

#### (b) Inadequate or no documentation on file - 22 issues in 18 of 35 files reviewed. For example:

- 4 instances totalling \$456,568 where only quotes were on file;
- 4 instances totalling \$741,874 where invoices were in the name of a related company; and
- 1 instance where there was no appraisal to support the value of used assets costing \$230,000.

#### (c) Issues relating to required on-site inspections in 35 files reviewed.

- 4 inspection certificates relating to association projects totalling \$238,840 were not on file;
- None of the 5 Government projects totalling \$1.4 million had inspection certificates of file;
- 14 inspections on projects totalling \$1,960,248 did not have the pictures required by policy;



## Reflections of the Auditor General

- 4 inspections indicated that equipment totalling \$158,656 was not onsite at inspection time; and
- 4 inspections did not include a record of serial numbers for equipment totalling \$867,828.

### (d) Improvements required in monitoring of projects

Final project reports were not always required. 18 projects totalling \$2,424,843 of 35 reviewed were not required to submit a final report. For 17 of 35 required to submit a final report, 2 totalling \$366,000 did not.

### (e) Non-compliance with the Agreement

The Department is not providing the Federal government with the required quarterly financial and management reports. Although audited financial statements and management letters are provided, they are not provided within timeframes established in the Agreement.

### (f) Inadequate information on the status of the APFI

The monitoring and reporting of approved agriculture projects is not adequate to determine if expected project outcomes are materializing and ultimately whether they are advancing the objectives of the APFI.

## Job Creation Program - (Part 2.13)

The Job Creation Program is a special employment initiative that was first introduced by the Department of Municipal Affairs in 1997. The Program concluded at 31 March 2005 and was replaced by the Community Enhancement Program. For fiscal 2005 the Program funded 462 projects in 37 districts and cost \$4.2 million.

Overall, the Department of Municipal Affairs did not adequately administer the Job Creation Program. Funding was not debated in the House of Assembly and there was no support for district allocations, the rationale for project selection was not well documented, and project monitoring was ineffective.

### (a) Funding not debated in the House of Assembly

Because the Job Creation Program was funded through special warrants and intra-departmental transfers from other programs, there was no opportunity for the House of Assembly to debate and consider funding requirements for the Program.

Furthermore, there was no documentation available to show either how much was allocated to each district or the basis for the allocation.

### (b) Issues with project selection:

- The merit of a project was not evaluated on an electoral district basis relative to other potential projects to maximize the effectiveness of the Program for the district.

As well, because funding is allocated by electoral district, there was no opportunity for the merit of projects to be evaluated on a Province-wide basis.

- The Department has not documented definitions for all its project criteria, and as a result, it was not possible to determine whether these criteria were met.

None of 92 project files examined contained sufficient information to demonstrate that approved projects met all defined Program criteria.

- Contrary to Program guidelines, 13 of 25 sponsor groups examined received funding for fiscal year 2005 even though they did not comply with Program guidelines for projects approved in 2004.
- There was no documentation in files outlining the rationale for funding approvals.
- There was no established application process for additional funding requests which would provide details from the sponsor group on either the work to be completed or the rationale for the additional funding request. As well, there was no documentation indicating on what basis the additional funds were approved.
- Of 58 rejected applications examined, 37 were subsequently approved for funding even though they were similar in content and scope to the 21 rejected applications which were not subsequently approved. Furthermore, there was no documentation to either explain the final resolution (approved/not approved) of the 58 applications or to evidence who determined and/or authorized the final resolution.

### (c) Project monitoring ineffective

The final reports contained in the sponsor group files examined did not include all required information in order for the Department to determine whether Program guidelines were followed and whether funds were being spent as intended. Furthermore, Departmental officials did not always take action to obtain information not provided by the sponsor groups. In fact, the Department did not take action in cases where issues of non-compliance were identified in reports that did contain the required information.

### Recreation Grants - (Part 2.15)

The Department of Tourism, Culture and Recreation provides grants to support community-based organizations, and provincial and national sports groups. During 2004-05, the Department provided \$1.7 million in grants for recreation operations.

Applications for recreation grants are not being evaluated consistently and the Department does not monitor the effectiveness of the program.

(a) Grant applications not evaluated consistently as follows:

- the Canada Games program does not have quantifiable evaluation criteria for the assessment of grant applications and allocation of money;
- the Provincial Sports Organizations and the Community Recreational Development programs have some quantifiable criteria; however, there is still significant use of discretion; and
- other subsidies to three provincial associations: Sport Newfoundland and Labrador, Newfoundland and Labrador Parks and Recreation, and School Sports are awarded based on a request letter and discussions. There are no formal applications or assessment criteria.

The Newfoundland and Labrador Summer and Winter Games are also subsidized and are normally awarded based on detailed proposals. However, the 2006 Newfoundland and Labrador Winter Games were awarded to an applicant (Humber Valley region) that did not submit a proposal for these games.

(b) Grants awarded contrary to guidelines as follows:

- some groups were over awarded funding grants;
- when comparing groups for similar circumstances, grants were awarded inconsistently; and
- in evaluating grant applications, the Department sometimes altered the information provided by the applicants and, because of the lack of explanation, it wasn't clear if it was just an error.

(c) Programs not monitored

The Department does not monitor the effectiveness of the recreation grant programs. Specific targets for program objectives have not been established and there is no annual performance report on the activities and outcomes of the programs.

### Liquor Licensing and Enforcement - (Part 2.6)

In 2004, I reviewed and reported on the Department of Government Services' administration of the Liquor Licensing and Enforcement Program for the fiscal years 2002, 2003 and 2004. In most instances, documentation supporting licensing and inspection activities was available at the Government Services Centre. However, the final resolution of some licensing and inspection issues was only available from the Newfoundland and Labrador Liquor Corporation. Our request to review those records was refused by the Corporation, making us unable to complete the review. The matter was reported to the House of Assembly and in 2005 the Corporation provided my Office with the required access.

There are instances where the Newfoundland and Labrador Liquor Corporation issued licenses inconsistently and in contravention of the *Liquor Control Act* and *Regulations*. Furthermore, violations by licensees are not always resolved in a timely and consistent manner. In particular:

#### (a) Licensing issues

There were licensing issues with 10 of 16 files from 2004. In 8 instances licenses were issued in contravention of the *Act* and *Regulations* and in 2 instances applications were denied when similar applicants had been issued a licence.

In 1 of 8 files from 2005, there was an issue in that a license was transferred several years ago to an applicant with a lengthy criminal history and renewed each year since then. Since the initial transfer, the licensee has been convicted of four additional criminal charges. Issuing this license was a violation of the *Regulations*.

#### (b) Enforcement issues

There were enforcement issues with 6 of 15 files from 2004. In 1 instance there was no enforcement action taken after three months on a violation, in 3 instances violations remained unresolved after periods ranging from 27 to 44 months, and the Corporation authorized a contravention of the *Regulations* relating to 2 violations relating to the same licensee by permitting consumption of alcohol in the concourse area of a facility during an all-ages indoor concert and by permitting alcohol to be consumed from an inappropriate container.

There were enforcement issues with 6 of 7 files from 2005. In 4 instances letters of reprimand were not issued until between 3 months and 23 months after the violations, in 1 instance the license was not suspended until 16 months after the violation, and in 1 instance there was no evidence of any enforcement action.

#### (c) Inconsistent actions and delays in disciplinary action

Licensees were treated inconsistently by a Tribunal of Board members in that letters of reprimand were issued to licensees with only one violation as well as to licensees with numerous violations.

---

## Reflections of the Auditor General

---

Enforcement issues are not always resolved in a timely manner. There were no Tribunal sittings from December 2002 to March 2005 resulting in a backlog of 10 licensees - for 6 licensees times ranged from 2 months to 56 months.

There could be inconsistent application of enforcement measures because there are no guidelines for the Director of Regulatory Services to identify when issues should be brought to the Board for review.

(d) Inspection planning not adequate

Inspections are carried out on an ad hoc basis and information from previous inspection activity is not used to plan subsequent inspection activity. Information on violations is not entered into the database in a timely manner at November 2005 the backlog dated back to May 2004.

### **Royal Newfoundland Constabulary - (Part 2.12)**

In 1998, members of the Royal Newfoundland Constabulary (RNC) were permitted to wear firearms as part of their regular uniform. My Office has performed a firearms audit each year since.

The RNC has adequate systems in place to record, monitor and secure its firearms; however, each year we identify instances of non-compliance with policy. It is clear that the RNC has to do more to improve compliance with its policies and procedures.

Although it was recommended back in 1998 that the arming policy be reviewed at the end of five years, i.e. March 2003, as at December 2006, no Select Committee had been established to review the arming policy of the RNC.

(a) Firearms and ammunition inventory system for 2006 is not accurate as follows:

- 38 handguns and 3 rifles were not recorded in the inventory system;
- 41 handguns were in a location other than that recorded in the system;
- For 5 types of ammunition, the physical count did not match the system amount in the case of 40 calibre training ammunition 9,012 rounds could not be accounted for; and
- Information on the assignment for 26 of the 51 handguns in Corner Brook as of February 2006 did not agree to the assignment information in the inventory system.

## Reflections of the Auditor General

### (b) Firearms policy infractions not always properly followed up

There were 221 firearm policy infractions between November 2004 and November 2006. Infractions included:

- 3 loaded firearms stored in lockers;
- 53 instances where ammunition in lockers did not agree with the inventory system;
- 56 instances where pepper spray was not stored in the member's locker;
- 5 instances where pepper spray was stored in the member's locker while the member was on duty;
- 4 instances where members loaded/unloaded their firearm without using the port;
- 15 instances where a member's locker was empty when they were not on duty; and
- 85 instances where firearm storage lockers were empty without any final resolution as to whether the member may have been on duty.

Not all infractions are being referred to the RNC's Professional Standards Section for investigation as required.

### (c) Monthly firearms storage lockers inspections not always performed as follows:

- no monthly inspections in St. John's for 8 months in 2006;
- no monthly inspections in St. John's for 8 months in 2005;
- no monthly inspections in Corner Brook for 4 months in 2005; and
- no indication that the lockers in the Tactics and Rescue Unit's Room in St. John's were inspected for December 2004 and June and December 2005.

### (d) Use of force training not being completed as required

- 121 members as of 8 November 2006 (173 as of 31 December 2005) had not re-qualified in the use of firearms within the required one year timeframe module 1;
- 75 members as of 8 November 2006 (121 as of 31 December 2005) had not received training in tactical room entries/weapons retention module 3 which was required to be completed by 31 December 2005; and

## Reflections of the Auditor General

- It is unlikely that the 186 members as of 8 November 2006 who required training on the use of force continuum module 4, will receive it by 31 December 2006.

The training database is neither complete nor accurate.

### (e) Use of Force Review Board not active

The Board did not meet between October 2002 and September 2006. Since then the Board has met twice to review the Firearms Policy. There were 2,514 use of force incidents reported between 1 November 2002 and 30 September 2006 - 233 of which related to firearms.

### Monitoring Health Care Boards - (Part 2.10)

Effective 1 April 2005, Government established 4 Regional Integrated Health Authorities throughout the Province by combining the 8 health care institutions and integrated boards with the 4 health and community services boards. In addition, the Eastern Regional Integrated Health Authority assumed the operations of the St. John's Nursing Home Board and the Newfoundland and Labrador Cancer Treatment and Research Foundation.

The overall financial position of the boards improved slightly in the fiscal year 2006 with unfunded liabilities declining \$7.8 million (1.5%) from \$532.6 million at 31 March 2005 to \$524.8 million at 31 March 2006. However, the unfunded liabilities at 31 March 2006 of \$524.8 million represent a 15% increase from the unfunded liabilities of \$455.7 million reported in 2002. All 4 boards had unfunded liabilities at 31 March 2006. The unfunded liabilities will eventually have to be funded by Government.

The Eastern Regional Integrated Health Authority accounted for \$355.2 million or 68% of the total \$524.8 million in unfunded liabilities. Two of the 4 boards, the Western Regional Integrated Health Authority and the Labrador-Grenfell Regional Integrated Health Authority, reported increases in the total unfunded liabilities for 2006 over 2005.

During the year, all 4 boards reported operating deficits totalling \$11.0 million. Operating deficits ranged from \$400,000 for the Western Regional Integrated Health Authority to \$5.6 million for the Eastern Regional Integrated Health Authority. One board, the Labrador-Grenfell Regional Integrated Health Authority, reported an annual operating deficit higher than that reported for the fiscal year 2005.

### Monitoring School Boards - (Part 2.5)

Effective 1 September 2004, 9 of the 11 school boards in the Province were dissolved and 3 new boards were created resulting in 4 English language school boards and 1 French language school board.

---

## Reflections of the Auditor General

---

There have been significant changes in the school system during the last 10 years. In the 1996-97 school year there were 432 schools serving 106,205 students and Provincial grants totalled \$487.9 million. In the 2005-06 school year, there were 294 schools serving 76,763 students and Provincial grants totalled \$578.0 million.

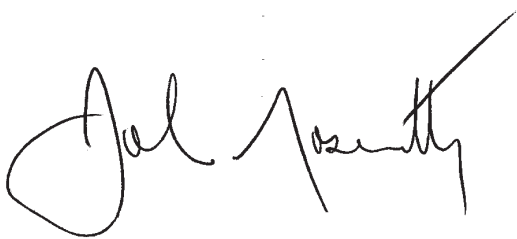
All 5 school boards had accumulated deficits as at 30 June 2006. The combined financial position of the 5 boards at 30 June 2006 shows total accumulated deficits of \$108.1 million, a 2% decrease from the \$110.7 million reported in 2005. Included in the accumulated deficit is an amount of \$103.0 million related to severance pay and leave accruals and \$9.8 million in net summer pay liability, less a net accumulated operating surplus of \$4.7 million. The Eastern Board accounted for \$53.5 million or 49% of the total \$108.1 million in accumulated deficits. The accumulated deficits will eventually have to be funded by Government.

All 5 boards reported operating surpluses for the year ended 30 June 2006 totalling \$5.1 million. Operating surpluses ranged from \$349,000 at the Labrador Board to \$2.3 million at the Eastern Board. Because of inconsistent reporting periods resulting from the restructuring of school boards in 2004, comparisons with prior years' financial results would not currently be meaningful. It will be next year before effective and meaningful comparisons can be performed.

Contrary to the *Schools Act, 1997*, 2 school boards did not submit their annual budgets for the 2007 fiscal year to the Minister for approval by the required date of 31 October 2006. The budget for the Conseil Scolaire Francophone was not submitted until 13 December 2006 and the Eastern Board still had not submitted its budget as of 14 December 2006, i.e. 6 months into the fiscal year.

### Acknowledgments

I acknowledge the cooperation and assistance my Office has received from officials of the various Government departments and Crown agencies during the completion of our audits. I also thank my staff for their continued hard work, professionalism and dedication.



**JOHN L. NOSEWORTHY, CA**  
**Auditor General**



**CHAPTER  
2  
COMMENTS ON AUDITS AND  
ADDITIONAL EXAMINATIONS**



## Highlights

Highlights of a review of constituency allowance claims by Members of the House of Assembly from fiscal years 1990 to 2006 and questionable payments to suppliers.

### Why our Office Did this Review

In 2004, Government asked my Office to start performing audit work at the House of Assembly establishment. In July 2006, we were asked to review constituency allowance claims for Members of the House of Assembly back to fiscal year 1990. Phase one, the subject of this report, was a review of excess constituency allowance claims by Members of the House of Assembly.

### What our Office Recommends

- All excess constituency allowance claim amounts relating to the 5 Members of the House of Assembly should be recovered.
- The IEC should ensure that reports tabled are complete and accurate.
- Minutes of the meetings of the IEC should clearly record decisions.
- Preventative controls should be put in place to ensure that Members are not provided with amounts in excess of approved entitlements.
- All financial transactions should be monitored in the Government's FMS.
- Controls should be implemented to ensure that there are no violations of the *Financial Administration Act* and the *Public Tender Act*.
- Purchase orders should be issued in accordance with Government rules.
- Financial and management controls should be implemented.
- Legislation should be amended so that our Office has full access to perform a comprehensive legislative audit.
- The amendment made to the *Internal Economy Commission Act* in 2000 should be reversed.

### What the IEC Said

To provide balance to this report and to ensure full disclosure, the IEC was asked to formulate a response to our findings and conclusions. The IEC's response, verbatim, is included at the end of this report. Readers are encouraged to consider the IEC's comments in this regard.



To view the full report, refer to the web site [www.gov.nl.ca/ag/reports.htm](http://www.gov.nl.ca/ag/reports.htm). For more information, contact Nina Goudie, Director of Information Resources, 709-729-2346 or [ninagoudie@gov.nl.ca](mailto:ninagoudie@gov.nl.ca).

### Chapter 2, Part 2.1

## HOUSE OF ASSEMBLY ESTABLISHMENT Constituency Allowance Claims

A series of reports have been issued regarding excess constituency allowance claims totalling \$1,586,573 for five members of the House of Assembly as follows: Edward J. Byrne, (\$467,653, 1999 to 2004), Randy Collins, (\$358,598, 2000 to 2006), Wally Anderson (\$344,465, 1998 to 2006), James Walsh (\$298,571, 1999 to 2004), and Percy Barrett, (\$117,286, 1998 to 2004).

In addition, a report was issued regarding questionable payments to suppliers. The report questioned the legitimacy of at least a portion of payments totalling \$2,651,644, made from April 1998 to December 2005, to three companies (Zodiac Agencies, JAS Enterprises Limited and Cedar Scents International). We also reported on payments totalling \$170,401 made during the period April 2001 through to December 2005, to Unique Keepsakes, a company owned by the former Director of Financial Operations and/or his spouse.

### What We Found

During our review we found that several factors present at the House of Assembly establishment contributed to these payments being made. In particular,

#### (a) Financial controls effectively eliminated

In 2000 the Commission of Internal Economy (IEC) directed that the Auditor General's Office cease performing audit work. The IEC also amended the *Internal Economy Commission Act* so that supporting documentation was not required to be provided to the Comptroller General. As a result, expenditures at the House of Assembly were not being subject to the same controls as Government expenditures.

#### (b) Weaknesses in internal controls

The former Clerk of the House of Assembly did not adequately fulfill their administrative responsibilities with regard to financial controls. As a result, there were many weaknesses in financial controls including: (i) no segregation of duties; (ii) no requirement for specific original documentation; and (iii) inadequate monitoring of payments to Members.

#### (c) Inaccurate IEC annual reports tabled in the House of Assembly

The actual constituency expense amount for Members in the annual reports, for the most part, did not agree with the information in Government's Financial Management System. Even though it has now been identified that some Members claimed in excess of what was approved by the IEC, the reports incorrectly showed that all Members' claims were within the approved limits. As a result, Members of the House of Assembly and the public were provided with incorrect information.

Other issues included:

#### (d) IEC did not publicly disclose additional allowances to Members

In May 2004, the IEC made a decision to pay each Member of the House of Assembly \$2,875. Minutes of IEC meetings, which are tabled in the House of Assembly, were so vague on this matter that it is not possible for the public to know that each Member was to receive an additional allowance of \$2,875. The former Clerk of the House of Assembly indicated that, in prior years, the IEC suggested that the minutes be kept vague on financial matters such as additional allowances to Members.

#### (e) Non-compliance with the *Financial Administration Act*

The House of Assembly establishment contravened the *Financial Administration Act* in two instances as follows: (i) Expenditures which should have been charged to allowances and assistance were charged in error to other activities; and (ii) Actual allowances and assistance expenditures during the 2006 fiscal year of \$5,648,119 exceeded the amended estimate of \$5,418,100 by \$230,019. The *Act* prohibits entering into a commitment to pay for goods or services unless there are sufficient funds available to meet the commitment.

### Introduction

---

#### Background

In 1988, the *Internal Economy Commission Act* was amended to provide for an independent Commission to:

- review total remuneration of the Members of the House of Assembly; and
- report to the Speaker with recommendations that would be final and binding.

In September 1989, a Report of the Commission on Remuneration to Members of the House of Assembly (*known as the “Morgan Report”*) was presented to the then Speaker of the House of Assembly. The report contained a series of recommendations on remuneration which included constituency allowances.

Under authority of the *Internal Economy Commission Act*, these initial recommendations have been varied periodically by documented decisions of the Commission of Internal Economy (IEC).

---

#### Reaction to audit findings

In 2000, my Office brought to the attention of the IEC that a Member, who was also a Cabinet Minister, had what we considered to be claims for inappropriate expense items - art work and wine. The IEC's reaction to our audit findings was to ask my Office to leave the House of Assembly establishment and cease audit work on Members' constituency allowances. At the same time, the IEC arranged for amendments to the *Internal Economy Commission Act* as follows:

- Section 8 was amended which resulted in the House of Assembly establishment not having to provide documentation to the Office of the Comptroller General in support of expenditures. As a result, supporting documentation was no longer subject to the same scrutiny as Government expenditures.
- Section 9 was amended so that the IEC could engage a private sector accounting firm to conduct the annual audit of the House of Assembly establishment. As a result, the Office of the Auditor General no longer had access without invitation and the House of Assembly establishment was therefore not subject to the same audit process as Government.

## Constituency Allowance Claims

It is difficult to understand why such action was taken. Members of the IEC at that time were:

<b>Liberal</b>	<b>Progressive Conservative</b>
Lloyd Snow (Chair)	Loyola Sullivan
Beaton Tulk	Tom Rideout
Paul Dicks	
Kevin Alyward	
Gerald Smith	

### **Auditor General invited back**

In 2004, Government asked my Office to start performing audit work at the House of Assembly establishment. I performed audits on: the Office of the Child and Youth Advocate and the Office of the Citizens' Representative - both audits identified significant issues. The audits also identified significant accounting issues at the House of Assembly establishment.

### **Initial review of constituency allowance claims**

In January 2006, we commenced a review of allowances and assistance paid to Members of the House of Assembly. As outlined by the IEC in its Annual Report to the House of Assembly [Schedule B, IEC 2004-05 Report], *“Each Member [of the House of Assembly] is entitled to an accountable constituency allowance. This allowance is for the payment of expenditures incurred in the performance of constituency business and may cover such items as office rental, equipment, supplies, secretarial and other support services, information material such as newspapers, advertising, purchase of flags, pins, etc..”* The maximum amount which may be paid to each Member of the House of Assembly varies by district and is set by the IEC.

Section 15(1) of the *Auditor General Act* requires that the Auditor General report to the Lieutenant-Governor in Council instances the Auditor General becomes aware of during the course of an audit which may involve improper retention or misappropriation of public money or another activity that may constitute an offence under the *Criminal Code* or another Act. Matters of this nature came to my attention during my audit of the House of Assembly relating to constituency allowance claims by Members of the House of Assembly.

### Initial reports

The initial review resulted in a series of reports to the Lieutenant-Governor in Council and the House of Assembly as follows:

- On 22 June 2006, I reported that a review of expenditures at the House of Assembly identified excess constituency allowance claims by Mr. Edward J. Byrne, M.H.A. totalling \$326,642 relating to fiscal years 2003 and 2004.
- On 4 July 2006, I reported that a review of expenditures at the House of Assembly identified excess constituency allowance claims by Mr. Randy Collins, M.H.A. totalling \$295,418 relating to fiscal years 2003, 2004, 2005 and 2006.
- On 4 July 2006, I reported that a review of expenditures at the House of Assembly identified excess constituency allowance claims by Mr. Wally Andersen, M.H.A. totalling \$243,244 relating to fiscal years 2003, 2004, 2005 and 2006.
- On 4 July 2006, I reported that a review of expenditures at the House of Assembly identified excess constituency allowance claims by Mr. James Walsh, former M.H.A., totalling \$228,169 relating to fiscal years 2003 and 2004.
- On 27 June 2006, I reported issues regarding payments to suppliers that circumstances surrounding payments totalling \$2,651,644, made from April 1998 to December 2005, to three companies (Zodiac Agencies, JAS Enterprises Limited and Cedar Scents International), led me to question the legitimacy of at least a portion of these payments. I also reported on payments totalling \$170,401 which were made during the period April 2001 through to December 2005, to Unique Keepsakes, a company owned by the former Director of Financial Operations at the House of Assembly, and/or his spouse.

These matters are currently being investigated by the Royal Newfoundland Constabulary.

---

## Constituency Allowance Claims

### Request by Lieutenant-Governor in Council

After submitting the aforementioned five reports, I considered the work of the Office of the Auditor General to be completed on these matters. However, in July 2006, I was requested by the Lieutenant-Governor in Council, pursuant to Section 16 of the *Auditor General Act*, to expand my review of Members' constituency allowance claims back to fiscal year 1990. From fiscal years 1990 to 2006 there were 122 different Members of the House of Assembly. I agreed to perform the expanded review and was provided with the necessary additional resources.

The review consists of two phases:

- phase one a review of excess constituency allowance claims by Members of the House of Assembly; and
- phase two a review of the appropriateness of expenditures claimed by Members of the House of Assembly and the adequacy of supporting documentation.

This report is the completion of phase one of the additional work. Phase two is ongoing and my report will be presented to the Lieutenant-Governor in Council and Members of the House of Assembly when it is completed.

### Additional reports

Based on the additional work conducted, five reports were issued to the Lieutenant-Governor in Council under section 15(1) of the *Auditor General Act*. At the same time, these five reports were also provided to Members of the House of Assembly.

- On 5 December 2006, I reported that a review of expenditures at the House of Assembly identified excess constituency allowance claims by Mr. Percy Barrett, M.H.A., totalling \$117,286 relating to fiscal years 1998 to 2004.
- On 5 December 2006, supplementary reports were provided on the four Members identified in the initial reports as having excess constituency allowance claims. Details are as follows:
  - further excess constituency allowance claims by Mr. Edward J. Byrne, M.H.A. totalling \$141,011 relating to fiscal years 1999, 2000, 2001 and 2002;
  - further excess constituency allowance claims by Mr. Randy Collins, M.H.A. totalling \$63,180 relating to fiscal years 2000, 2001 and 2002;

## Constituency Allowance Claims

- further excess constituency allowance claims by Mr. Wally Andersen, M.H.A. totalling \$101,221 relating to fiscal years 1998, 1999, 2000, 2001 and 2002; and
- further excess constituency allowance claims by Mr. James Walsh, former M.H.A., totalling \$70,402 relating to fiscal years 1999, 2000, 2001 and 2002.

I recommended that these matters also be investigated by the Royal Newfoundland Constabulary.

## Findings

### Summary of excess constituency allowance claims

Further to the request of the Lieutenant-Governor in Council pursuant to section 16 of the *Auditor General Act*, I have now completed phase one of the additional work.

In total, nine reports have been issued identifying excess constituency allowance claims totalling \$1,586,573 for five Members of the House of Assembly (four current and one former). Details are outlined in Figure 1.

### Figure 1

#### Excess Constituency Allowance Claims Made by Members of the House of Assembly Fiscal Years Ended 1990 to 2006

M.H.A.	Amount Per Initial Report	Amount Per Supplementary Report	Total Excess Amount	Fiscal Years Involved
Mr. Edward J. Byrne	\$ 326,642	\$ 141,011	\$ 467,653	1999 to 2004
Mr. Randy Collins	295,418	63,180	358,598	2000 to 2006
Mr. Wally Andersen	243,244	101,221	344,465	1998 to 2006
Mr. James Walsh	228,169	70,402	298,571	1999 to 2004
Mr. Percy Barrett	-	117,286	117,286	1998 to 2004
<b>Total</b>	<b>\$1,093,473</b>	<b>\$ 493,100</b>	<b>\$1,586,573</b>	

### Comments related to financial controls and management practices

Members of the House of Assembly have always been informed of the limit of their entitlement with regards to constituency allowance. Therefore, Members have a responsibility not to claim amounts in excess of their approved limits. As a result, any weakness in financial controls and management practices at the House of Assembly establishment is no excuse for Members to claim amounts in excess of their approved limits.

Subsequent to my initial findings on excess constituency allowance claims, there was a significant amount of discussion about weaknesses in financial controls and management practices at the House of Assembly establishment. On 20 July 2006, Government authorized a Terms of Reference for a review to be undertaken by the Chief Justice of the Supreme Court of Newfoundland and Labrador (Trial Division). The Terms of Reference included a review and evaluation of the policies and procedures regarding compensation and constituency allowances for Members of the House of Assembly.

Details of issues related to constituency allowance claims noted during my review are outlined in the following sections:

1. Government's financial controls and safeguards.
2. Internal controls within the House of Assembly establishment.
3. IEC annual reports.
4. Disclosure of additional allowances to Members.
5. *Financial Administration Act*.

I have also included a section on legislative amendments that would strengthen openness, transparency and accountability at the House of Assembly establishment.

Other issues relating to financial controls and management practices will be included in my phase two report relating to the appropriateness of expenditures claimed and the adequacy of supporting documentation. That review is currently in progress.

---

### Financial controls were effectively eliminated by the IEC

#### 1. Government's financial controls and safeguards

We know now that there were actions taken by the IEC which resulted in the elimination of established financial controls and management safeguards at the House of Assembly establishment. This resulted in the House of Assembly establishment expenditures not being subject to the same controls as Government expenditures.



Two very significant actions taken by the IEC which paved the way for the elimination of controls are as follows:

- In 2000 the IEC directed that the Auditor General's Office cease performing audit work. This decision was made after the IEC was informed by the Auditor General that there appeared to be questionable constituency allowance items being claimed by a Member who was also a Minister of the Crown.
- In 2000 the *Internal Economy Commission Act* was amended so that the officials at the House of Assembly establishment were not required to send supporting documentation to the Office of the Comptroller General. As a result, all documentation was retained at the House of Assembly establishment and therefore not subject to any meaningful review, scrutiny or challenge by either the Office of the Comptroller General or the Office of the Auditor General.

These two actions effectively eliminated any possibility that questionable payments would be detected by officials outside the House of Assembly establishment.

We also found that the House of Assembly establishment did not always adhere to Government's rules as follows:

- public tenders were not always called;
- quotes or another reasonable basis to support prices charged on company invoices were not always documented; and
- purchase orders were not always issued, especially in more recent years.

### Weaknesses in internal controls

## 2. Internal controls within the House of Assembly establishment

In addition to the actions taken by the IEC which resulted in House of Assembly expenditures not being subject to the same scrutiny as Government expenditures, internal controls within the House of Assembly establishment were basically non-existent. When internal controls are deficient, there is an increased risk that inappropriate transactions can occur and go undetected.

We found that the former Clerk of the House of Assembly, who was responsible for the administration of the House of Assembly establishment including the adequacy of financial controls, did not adequately fulfill that part of their administrative responsibilities. As a result, there were many weaknesses in financial controls at the House of Assembly establishment including:

### *No segregation of duties*

The former Director of Financial Operations performed the following incompatible functions:

- ordered goods, indicated receipt of goods and approved supplier invoices for direct payments on behalf of Members;
- checked the accuracy and appropriateness of supporting documentation and certified constituency allowance claims for payment; and
- in some cases prepared constituency allowance claims on behalf of Members.

The risk of inappropriate transactions occurring and going undetected was significantly increased by the fact that individuals required to perform an independent payment authorization function on Government's Financial Management System most often authorized payments without performing a review of the supporting documentation. In particular, when officials at the House of Assembly authorized payments, they did not always review supporting documentation prior to electronic sign-off. Furthermore, when an official at the Chief Electoral Office authorized payments, the electronic sign-off was provided without ever requesting or seeing supporting documentation.

### *No requirement for specific original documentation*

The risk that inappropriate transactions could occur was significantly increased by the fact that there was no requirement for Members to submit specific original documentation (e.g. original invoice **and** proof of payment) to support items claimed as constituency expenses. Instead, a Member could submit an original invoice, a copy of an invoice or just proof of payment for reimbursement. As a result, there was an increased risk that double billings could occur.

Furthermore, the risk of not detecting double billings by Members was increased because officials did not always perform the required review of supporting documentation.

### *Inadequate monitoring of payments to Members*

Payments to Members were tracked by the former Director of Financial Operations against limits established by the IEC using a computer spreadsheet i.e. Government's Financial Management System was not used. We identified the following weaknesses in this process:

- there was no reconciliation of payments recorded in Government's Financial Management System for each Member of the House of Assembly to amounts recorded in the computer spreadsheet;
- the former Director of Financial Operations would overwrite the prior year's transactions recorded in the computer spreadsheet thereby effectively eliminating a readily accessible audit trail;
- the treatment of HST varied and for the most part depended on whether a Member had any balance remaining in their constituency allowance account (e.g. if the IEC allocated a constituency allowance of \$10,000, this would be the total that a Member could claim. However, it was common to find that the HST portion of expense claims was not considered part of the approved limit. Therefore, the Member would end up with the \$10,000 plus the HST portion of \$1,500 and thereby receive \$11,500 - an amount in excess of what was approved by the IEC); and
- there was not an adequate supervisory review of the Director's work. Discussion with House of Assembly officials and a review of related documentation indicated that the former Clerk of the House of Assembly was not directly involved with payment processing or monitoring.

In May 2006, a Chief Financial Officer was hired and weaknesses in financial controls and management practices are being addressed on an on-going basis.

---

### Inaccurate IEC annual reports tabled in the House of Assembly

#### 3. IEC annual reports

Each year the IEC provides an annual report of its activities and payments for tabling in the House of Assembly. These reports become public documents and are an integral part of the IEC's transparency and accountability related to the operations of the House of Assembly establishment. My Office identified the following issues regarding the IEC annual reports:

- The actual constituency expense amount for Members in the annual reports, for the most part, did not agree with the information in Government's Financial Management System (FMS). Even though it has now been identified that some Members claimed in excess of what was approved by the IEC, the reports incorrectly showed that all Members' claims were within the approved limits. As a result, Members of the House of Assembly and the public were provided with incorrect information.
- The annual reports of the IEC tabled in the House of Assembly did not include an additional allowance amount of \$2,875 which was approved for each Member of the House of Assembly for the 2004 fiscal year. There was no mention whatsoever of either the allowance or the payment in the annual report tabled in the House of Assembly. As a result, there was no public disclosure of the additional allowance.
- The IEC's annual report for the 2000 fiscal year included an addition error in totalling district allowances. The report showed that the total IEC approved limit of the 48 districts was \$1,529,000. In fact, that total should have been \$1,692,400. It appears that the annual report was not checked for arithmetical accuracy before tabling in the House of Assembly. As a result, Members of the House of Assembly and the public were provided with incorrect information.

### IEC did not publicly disclose additional allowances to Members

#### 4. Disclosure of additional allowances to Members

Pursuant to section 5(2) of the *Internal Economy Commission Act*, the IEC has the authority to act on all matters of financial and administrative policy affecting the House of Assembly.

## Constituency Allowance Claims

In May 2004, the IEC made a decision to pay each Member of the House of Assembly \$2,875 (\$2,500 + \$375 HST). The Minutes of the IEC meeting of 12 May 2004 indicates the following: *“The Commission by order approved a proposal relating to Members' Constituency Allowances for the 2003-04 fiscal year. It was agreed that the proposal as submitted be approved for the period ending March 31, 2004.”* Members of the IEC at that time were:

<b>Progressive Conservative</b>	<b>Liberal</b>
Harvey Hodder (Chair)	Kelvin Parsons
Roger Fitzgerald	Percy Barrett
Edward Byrne	
Loyola Sullivan	
Elizabeth Marshall	

I note the following regarding this payment:

- Minutes of IEC meetings, which are tabled in the House of Assembly as part of the IEC annual report for public examination, are so vague on this matter that it is not possible for the public to know that each Member was to receive an additional allowance of \$2,875.

Officials at the House of Assembly informed me that this 'additional allowance' to Members of the House of Assembly was not an unprecedented occurrence. They indicated that additional allowances were made a number of times in prior years. However, the officials were unsure of the dates and amounts and indicated that again neither the minutes of IEC meetings included in the IEC annual reports nor the more detailed notes from the meetings provided sufficient details on additional allowances. However, officials did indicate that the amounts were not significant. It is apparent that the minutes of the IEC meeting and the more detailed notes were vague on such matters.

I spoke with the former Clerk of the House of Assembly who advised me that, in prior years, the IEC suggested to him that the IEC minutes should be kept vague on financial matters such as additional allowances to Members.

- Officials from the Office of the Comptroller General have requested information about the nature of the \$2,875 payment to determine whether, for income tax purposes, the allowance would be taxable. For income tax purposes, a discretionary payment such as this would likely be taxable and, therefore, Government would be required to issue a T-4 or T-4A slip to each Member. However, the House of Assembly establishment has the option of seeking a ruling from the Canada Revenue Agency requesting that the allowance be deemed as non-taxable.
- 

**Non-compliance with the *Financial Administration Act***

### **5. *Financial Administration Act***

The House of Assembly establishment contravened the *Financial Administration Act* in two instances as follows:

- Expenditures which should have been charged to allowances and assistance were charged in error to other activities. Section 22 of the *Act* prohibits the issue of public money out of the Consolidated Revenue Fund for purposes other than those authorized by the Legislature.
- Actual allowances and assistance expenditures during the 2006 fiscal year of \$5,648,119 exceeded the amended estimate of \$5,418,100 by \$230,019. Section 26(2) of the *Act* prohibits entering into a commitment to pay for goods or services unless there are sufficient funds available to meet the commitment.

Problems with the financial controls at the House of Assembly establishment were acknowledged by the former Clerk of the House of Assembly when he stated in Government's Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund that "...*It is possible that incorrect classification may have occurred given the recent findings with respect to the Auditor General's Reports issued in June and July, 2006....*"

---

### Legislation should be amended

There are two legislative amendments, which if made, would significantly enhance openness, transparency and accountability at the House of Assembly establishment. The legislative amendments relate to access by the Office of the Auditor General to conduct comprehensive legislative audits at the House of Assembly establishment and filing of documentation by the House of Assembly establishment with the Office of the Comptroller General. Details are as follows:

#### *Unrestricted audit access*

My Office was able to perform audits on the House of Assembly establishment including the Officers of the House of Assembly as a result of Government's willingness to grant access. In my opinion, it is fundamentally wrong that Government has the ability to decide whether or not it will permit the Office of the Auditor General to audit the House of Assembly establishment. If Government is committed to openness, transparency and accountability, then the House of Assembly establishment should be subject to audit, i.e. an invitation should not be required for the Office of the Auditor General to perform an audit. Furthermore, the audit performed at the House of Assembly establishment should be an audit as outlined in the *Auditor General Act* i.e. a comprehensive legislative audit.

In order to demonstrate a commitment to openness, transparency and accountability, legislation should be amended so that the Office of the Auditor General has unrestricted access to perform audits. This could be accomplished through amendments to either the *Auditor General Act* or the *Internal Economy Commission Act*.

#### *Filing of documentation*

In 2000 the *Internal Economy Commission Act* was amended and resulted in the House of Assembly establishment not having to provide documentation to the Office of the Comptroller General in support of expenditures. As a result, supporting documentation was not subject to the same scrutiny as Government expenditures. I note that since 2004, the House of Assembly has been providing supporting documentation to the Office of the Comptroller General. However, the *Internal Economy Commission Act* was not changed to reverse the amendment made in 2000.

In order to demonstrate a commitment to openness, transparency and accountability, the amendment made to the *Internal Economy Commission Act* in 2000 should be reversed so that the House of Assembly establishment is required to provide all supporting documentation to the Office of the Comptroller General.

---

### Recommendations

---

*All excess constituency allowance claim amounts relating to the 5 Members of the House of Assembly identified in reports issued by my Office in accordance with Section 15 of the Auditor General Act should be recovered.*

*Reports tabled by the Commission of Internal Economy in the House of Assembly should be complete and accurate.*

*Minutes of the meetings of the Commission of Internal Economy should clearly record decisions.*

*Preventative controls should be put in place to ensure that Members of the House of Assembly are not provided with amounts in excess of approved entitlements.*

*All financial transactions should be monitored in Government's Financial Management System.*

*Controls should be implemented to ensure that there are no future violations of the Financial Administration Act and the Public Tender Act.*

*Purchase orders should be issued in accordance with Government rules.*

*Financial and management controls should be implemented to address:*

- *expenditure recording and account distribution;*
- *reconciliation and monitoring of expenditure accounts to budget;*
- *documentation requirements in support of constituency expense claims;*
- *review and sign-off of documents before payments are authorized; and*
- *segregation of duties and elimination of incompatible functions.*



*The applicable legislation should be amended so that the Office of the Auditor General has full access to perform a comprehensive legislative audit of the accounts and records at the House of Assembly establishment.*

*The amendment made to the Internal Economy Commission Act in 2000 should be reversed so that the House of Assembly establishment is required to provide all documentation to the Office of the Comptroller General in support of expenditures.*

---

## Commission of Internal Economy Response

---

*The Commission of Internal Economy acknowledges the efforts of the Office of the Auditor General in its review of House administration. In 2004, when the Commission of Internal Economy (IEC) reinstated the roles of the Comptroller General and Auditor General, it was an acknowledgment that these two offices play a necessary role in the administration of the House.*

*Since that time, along with reinstating the Comptroller General and Auditor General, the House has also implemented more stringent administrative controls and increased administration staff levels. The hiring of a Chartered Accountant - with experience in both the Auditor General's and Comptroller General's offices - as Chief Financial Officer in May of 2006 began this process and additional administrative staff have also been hired.*

*The implementation of standard financial controls and additional staff, combined with the efforts of the Auditor General and Comptroller General, has resulted in many of the deficiencies identified in this Report being already addressed. The Report of the Commission lead by Chief Justice Green will undoubtedly contain recommendations for any additional improvements it deems necessary in the administration of the House.*

*With respect to the specific recommendations of the Auditor General, we offer the following responses:*

All excess constituency allowance claim amounts relating to the 5 Members of the House of Assembly identified in reports issued by my Office in accordance with Section 15 of the Auditor General Act should be recovered.

## Constituency Allowance Claims

*The IEC is currently addressing this matter with the Office of the Comptroller General to ensure compliance with Section 31 of the Financial Administration Act.*

Reports tabled by the Commission of Internal Economy in the House of Assembly should be complete and accurate.

*The reports cited are among those matters which form part of a criminal investigation involving the former senior financial official of the House. Future reports will be complete and accurate.*

Minutes of the meetings of the Commission of Internal Economy should clearly record decisions.

*The IEC has directed the Clerk to ensure decisions are recorded accurately and completely. The Minutes are currently available through the Legislative Library.*

Preventative controls should be put in place to ensure that Members of the House of Assembly are not provided with amounts in excess of approved entitlements.

*Funds controls have been put in place in the Financial Management System (FMS) and processes for budget transfers have been implemented to ensure excess payments cannot be made.*

All financial transactions should be monitored in Government's Financial Management System.

*Financial transactions for each Member are now recorded and reported in the Financial Management System (FMS) for each category of constituency allowance expenditure.*

Controls should be implemented to ensure that there are no future violations of the Financial Administration Act and the Public Tender Act.

*Controls have already been implemented to ensure compliance with the Financial Administration Act. Pending the legislative advice from the Commission led by Chief Justice Green, the House has been adhering to the principles of the Public Tender Act.*

Purchase orders should be issued in accordance with Government rules.

*All purchase orders within the House Administration are currently issued in accordance with Government rules.*

## Constituency Allowance Claims

---

Financial and management controls should be implemented to address:

- Expenditure recording and account distribution;
- Reconciliation and monitoring of expenditure accounts to budget;
- Documentation requirements in support of constituency expense claims;
- Review and sign-off of documents before payments are authorized; and
- Segregation of duties and elimination of incompatible functions.

*Controls are currently in place within the House Administration to address all of these concerns.*

The applicable legislation should be amended so that the Office of the Auditor General has full access to perform a comprehensive legislative audit of the accounts and records at the House of Assembly establishment.

The amendment made to the Internal Economy Commission Act in 2000 should be reversed so that the House of Assembly establishment is required to provide all documentation to the Office of the Comptroller General in support of expenditures.

*These two recommendations would confirm current House practice respecting the roles of the Auditor General and Comptroller General. We anticipate that the Commission lead by Chief Justice Green will be addressing these legislative issues.*

---

## Constituency Allowance Claims

---



## Highlights

Highlights of a review of the Office of the Chief Electoral Officer (OCEO) for the period 1 April 2003 to 31 March 2006.

### Why our Office Did this Review

We undertook this review to analyze the accounts of the Office of the Chief Electoral Officer to determine whether they are adequately maintained and to determine whether the expenditures of the OCEO have been made in accordance with policies, procedures and legislation.

### What our Office Recommends

Our Office recommends that the OCEO use an objective process for hiring temporary employees and ensure compliance with the *Conflict of Interest Act*. The OCEO should also require prior written approval of all overtime and consider alternatives to current staffing arrangements to minimize overtime. Furthermore, we recommend that the OCEO should:

- avoid conflict of interest situations with regards to purchasing;
- accurately maintain all accounting records;
- require that supporting documentation be reviewed prior to expenditures being approved for payment;
- comply with the *Public Tender Act*;
- require that all travel be in accordance with approved Journey Authorizations;
- make expenditures in accordance with established policies and procedures;
- monitor cellular telephone use; and
- comply with Government policy for reimbursing education expenditures.

### What the Chief Electoral Officer Said

To provide balance to this report and to ensure full disclosure, the Chief Electoral Officer was asked to formulate a response to our findings and conclusions. The Chief Electoral Officer's response, verbatim, is included at the end of this report. Readers are encouraged to consider the Chief Electoral Officer's comments in this regard.

◆ ◆ ◆ ◆

To view the full report, refer to the web site [www.gov.nl.ca/ag/reports.htm](http://www.gov.nl.ca/ag/reports.htm). For more information, contact Nina Goudie, Director of Information Resources, 709-729-2346 or [ninagoudie@gov.nl.ca](mailto:ninagoudie@gov.nl.ca).

Chapter 2, Part 2.2

### OFFICE of the CHIEF ELECTORAL OFFICER

The Office of the Chief Electoral Officer is created under the authority of the *Elections Act, 1991*. The duties of the Chief Electoral Officer include exercising general direction and supervision over the administrative conduct of elections. The OCEO has 4 permanent staff and 4 temporary staff. Additional temporary staff are hired as necessary during elections.

### What We Found

Our review identified a number of significant concerns with the management practices followed by the OCEO. We found instances of conflict of interest and non-compliance with the *Public Tender Act*. We also found significant amounts of overtime paid to staff without any indication that alternate arrangements had been considered, overtime not approved in accordance with Government policy, inaccurate accounting records and lack of internal controls.

#### (a) Conflict of interest over hiring

Contrary to the *Conflict of Interest Act, 1995*, 3 of the individuals employed as temporary employees by the Office of the Chief Electoral Officer were direct dependents of 3 OCEO employees. In addition, while not direct dependents of OCEO employees, 8 other temporary employees were related to 6 OCEO employees. Furthermore, contrary to sound management practices, there were no advertisements, no competitions held and no other objective process for the hiring of any temporary employees.

#### (b) Conflict of interest over purchasing

In our opinion there was a conflict of interest regarding the former Director of Financial Operations of the House of Assembly and certain financial transactions with the OCEO. The conflict of interest results because the former Director of Financial Operations, whose company (either owned by the former Director and/or the former Director's spouse) did business with the OCEO, approved most of the OCEO's expenditures. During the 2 year period from 1 April 2002 to 31 March 2004, the OCEO purchased \$13,829 worth of items from the former Director's company. The items purchased included such things as Newfoundland art and silver key chains.

#### (c) Excessive overtime and overtime without required approval

Overtime payments totaling \$295,384 were paid to the four permanent staff in the last four years, representing 38.6% of their regular annual salary. In addition, overtime payments totaling \$201,718 were also paid to temporary employees in the last four years. Overtime was not approved in accordance with Government policy and there was no evidence that alternatives to the current staffing arrangements had been considered.

#### (d) Expenditure issues and non-compliance with the *Public Tender Act*

Our review identified an instance where an employee's travel was not in accordance with the approved Journey Authorization. We found excessive use of cellular telephones and reimbursement from an employee for personal use. Two employees were reimbursed 100% instead of 50% for education expenditures, textbooks and other costs. We also identified 6 instances totalling \$213,265 where the OCEO did not comply with the *Public Tender Act*.

#### (e) Inaccurate accounting records and lack of internal controls

We identified numerous instances of amounts charged to incorrect accounts and instances where expenditures (land line telephone) were incorrectly charged to the House of Assembly. In addition, internal controls for payment processing were weak in that invoices were approved for payment by staff at the House of Assembly, without any review of supporting documentation.

### Introduction

---

#### Background

The Office of the Chief Electoral Officer is created under the authority of the *Elections Act, 1991* (the *Act*). In accordance with the *Act*, the duties of the Chief Electoral Officer are:

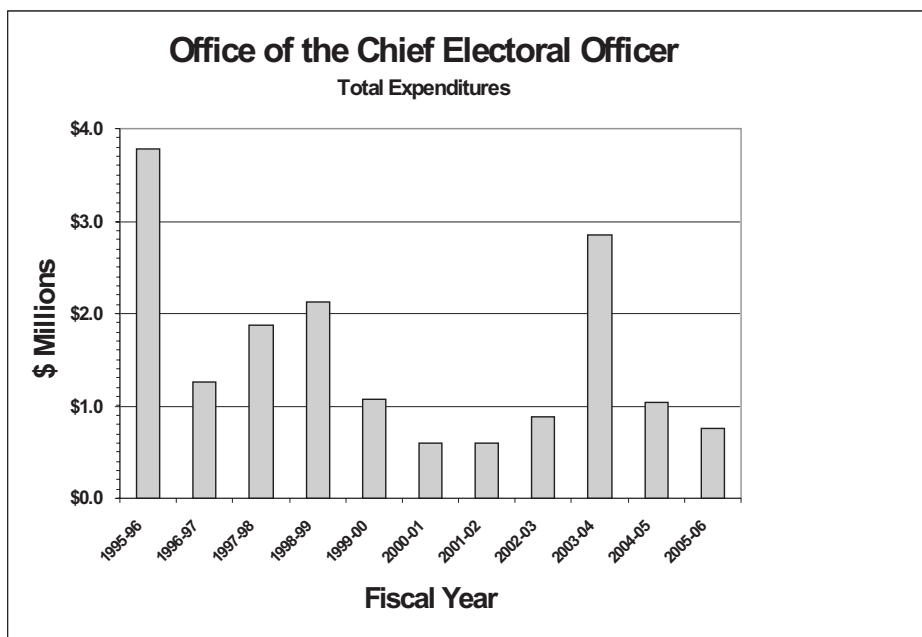
- to exercise general direction and supervision over the administrative conduct of elections and to enforce on the part of election officers fairness, impartiality and compliance with the *Act*;
- to issue to election officers those instructions that he or she considers necessary to ensure effective execution of the *Act*; and
- to perform all other duties that are imposed on him or her by or under the *Act*.

The Office is located in St. John's and has four permanent positions reporting to the Chief Electoral Officer. In addition, there are generally four temporary staff with additional temporary staff hired as necessary during elections.

The activities of the Office of the Chief Electoral Officer are driven mainly by the occurrence of electoral events, including general elections and by-elections. Figure 1 indicates expenditures by fiscal year. Note that there were general elections in fiscal years 1996, 1999 and 2004, and by-elections in 1998, 2001, 2002, 2003 and 2006.

Figure 1

**Office of the Chief Electoral Officer  
Total Expenditures  
Years Ending 31 March  
1996 to 2006**



Source: Public Accounts

As indicated in Figure 1, expenditures were the highest in 1996, 1999 and 2004, when there was a general election

The Chief Electoral Officer is an Officer of the House of Assembly and reports to the Speaker of the House. The Chief Electoral Officer responsible for the Office during the period of our review was appointed on 26 March 2001 and retired on 30 April 2006. A new Chief Electoral Officer was appointed effective 1 May 2006 and was confirmed by the House of Assembly on 15 May 2006.

**Expenditure activity** Figure 2 presents a summary of expenditures of the Office of the Chief Electoral Officer during the period 1 April 2003 to 31 March 2006.

**Figure 2****Office of the Chief Electoral Officer  
Expenditure by Category  
Years Ending 31 March  
2004 to 2006**

<b>Expenditure Category</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>Total</b>
Salaries and employee benefits	\$1,738,856	\$ 421,767	\$ 541,312	\$2,701,935
Transportation and communications	170,761	18,864	23,095	212,720
Supplies	24,377	5,031	9,832	39,240
Professional services	20,559	15,596	12,437	48,592
Purchased services	620,038	104,013	122,919	846,970
Property, furnishings, and equipment	316	1,395	1,514	3,225
Grants and subsidies	274,239	480,038	14,744	769,021
<b>Total Expenditure</b>	<b>\$2,849,146</b>	<b>\$1,046,704</b>	<b>\$ 725,853</b>	<b>\$4,621,703</b>

---

**Objectives and Scope**

---

**Objectives**

Our objectives were to:

- analyze the accounts of the Office of the Chief Electoral Officer to determine whether they are adequately maintained; and
  - review the expenditures of the Office of the Chief Electoral Officer to determine whether they have been made in accordance with relevant policies, procedures and legislation.
- 

**Scope**

Our review of the Office of the Chief Electoral Officer covered the period 1 April 2003 to 31 March 2006.

We completed our review in April 2006.

---



## Conclusions

---

Our review identified a number of significant concerns with the management practices followed by the Office of the Chief Electoral Officer. We found instances of conflict of interest and non-compliance with the *Public Tender Act*. We also found significant amounts of overtime paid to staff without any indication that alternate arrangements had been considered, overtime not approved in accordance with Government policy, inaccurate accounting records and lack of internal controls, as well as issues with expenditures related to travel, cellular telephones, and educational support. In particular:

---

### Conflict of interest over hiring

Contrary to the *Conflict of Interest Act, 1995*, between 1 April 2003 and 30 September 2005, 3 of the individuals employed as temporary employees by the Office of the Chief Electoral Officer were direct dependents (i.e. under 19 years of age) of 3 Office employees for purposes of the *Act*.

In addition, while not direct dependents of Office employees for purposes of the *Act*, 8 other temporary employees were related to 6 Office employees. One of the 8 temporary employees, the brother of the secretary to the Chief Electoral Officer and the then Premier's brother-in-law, was hired for August and September 2003. In October 2003, this person made an unsuccessful bid for election to the House of Assembly and was subsequently employed in the Opposition Office.

In another instance, a temporary employee was the spouse of an Officer of the House of Assembly.

Furthermore, contrary to sound management practices, there were no advertisements, no competitions held and no other objective process for the hiring of any temporary employees.

---

### **Conflict of interest over purchasing**

In our opinion there was a conflict of interest regarding the former Director of Financial Operations of the House of Assembly and certain financial transactions with the Chief Electoral Office. The conflict of interest resulted because the former Director, who owned a company which did business with the Office, approved most of the Chief Electoral Office expenditures. During the 2 year period from 1 April 2002 to 31 March 2004, the Chief Electoral Office purchased \$13,829 worth of items from the former Director's company. The Chief Electoral Office knew or ought to have known about the relationship. The items purchased included such things as Newfoundland art and silver key chains.

---

### **Excessive overtime and overtime without required approval**

Overtime payments totaling \$295,384 were paid to the four permanent staff in the last four years, representing 38.6% of their regular annual salary. For example during the fiscal year 2004, the Departmental Programme Coordinator received overtime payments of \$46,484 representing 115% of their regular salary of \$40,310 while the Director of Election Operations received overtime payments of \$50,914 representing 96.8% of their regular salary of \$52,586.

Overtime payments totaling \$201,718 were paid to temporary employees in the last four years. This represents 40.9% of their regular annual salary. For example, during the fiscal year 2004, 8 of these employees received overtime payments in excess of their regular salary. In these 8 instances, the regular salaries totalled \$20,772 while the overtime payments totalled \$29,662.

There was no evidence that alternatives to the current staffing arrangements had been considered to minimize overtime as required by Government's Overtime Policy which indicates a responsibility to plan work processes, program delivery and staff schedules to minimize overtime. Furthermore, overtime is not approved in accordance with Government policy which requires written prior approval.

---

**Expenditure issues and non-compliance with the *Public Tender Act***

Expenditures of the Office are not always made in accordance with established policies and procedures. Our review identified an instance where an employee's travel was not in accordance with the approved Journey Authorization. We found excessive use of cellular telephones and, subsequent to the start of our review, a \$600 reimbursement by an employee relating to personal use. Contrary to Government policy, 2 employees were reimbursed 100% (\$1,168) of education expenditures and \$332 for textbooks and other costs, versus the 50% (\$584) of education expenditures and no reimbursement for textbooks and other costs Government provides to employees.

We also identified 6 instances totalling \$213,265 where the Office did not comply with the *Public Tender Act*.

---

**Inaccurate accounting records and lack of internal controls**

The accounts are not adequately maintained as evidenced by numerous instances of amounts charged to incorrect accounts, as well as instances where expenditures have not been charged to the accounts for goods and services provided to the Office.

In addition, there is a serious weakness in the system of internal control for payment processing in that invoices are approved for payment by staff at the House of Assembly without any review of supporting documentation.

---

## Findings and Recommendations

---

**Introduction**

As outlined in Figure 2, during the period 1 April 2003 to 31 March 2006 expenditures related to the operations of the Office of the Chief Electoral Officer totalled \$4,621,703.

Our review of the Office's operations during this period included a review of:

- A. Conflict of interest
  - B. Salaries and employee benefits
  - C. Compliance with the *Public Tender Act*
  - D. Maintenance of accounts
  - E. Travel
  - F. Other expenditures
-

## A. Conflict of Interest

---

### **Conflict of interest over hiring**

The *Conflict of Interest Act, 1995* provides that an employee shall not make or participate in making a decision, or use his or her position to seek to influence a decision, which will benefit the employee or their family (spouse, minor child, or other dependent relative). Between 1 April 2003 and 30 September 2005, 3 individuals were employed as temporary employees by the Office of the Chief Electoral Officer. Office officials indicated that contrary to guidelines contained in the *Act*, these individuals were direct dependents (i.e. under 19 years of age) of 3 employees.

In addition, while not direct dependents of Office employees for purposes of the *Act*, 8 other temporary employees were related to 6 Office employees. One of the 8 temporary employees, the brother of the secretary to the Chief Electoral Officer and the then Premier's brother-in-law, was hired for August and September 2003. In October 2003, this person made an unsuccessful bid for election to the House of Assembly and was subsequently employed in the Opposition Office.

In another instance, a temporary employee at the Chief Electoral Office was the spouse of an Officer of the House of Assembly.

---

### **Inappropriate practices re: hiring of temporary employees**

Contrary to sound management practices, there were no advertisements, no competitions held and no other objective process for the hiring of any temporary employees.

---

### **Conflict of interest over purchasing**

In our opinion there was a conflict of interest regarding the former Director of Financial Operations of the House of Assembly and the Chief Electoral Office. The former Director owned a company which had been selling items such as Newfoundland art and silver key chains to the Chief Electoral Office. The Chief Electoral Office knew or ought to have known about the relationship. During the 2 year period from 1 April 2002 to 31 March 2004, the Chief Electoral Office purchased \$13,829 worth of items from the former Director's company. There were no purchases made by the Chief Electoral Office from this company after 31 March 2004.

Internal controls at the Chief Electoral Office are weak in that the Director approves most of the Chief Electoral Office expenditures without reviewing any supporting documentation and ultimately maintains the records of the Chief Electoral Office. As a result, this is a situation where the Director is in a position to influence purchases from his company, approve payments to his company, and manipulate Chief Electoral Office records.

**B. Salaries and Employee Benefits**

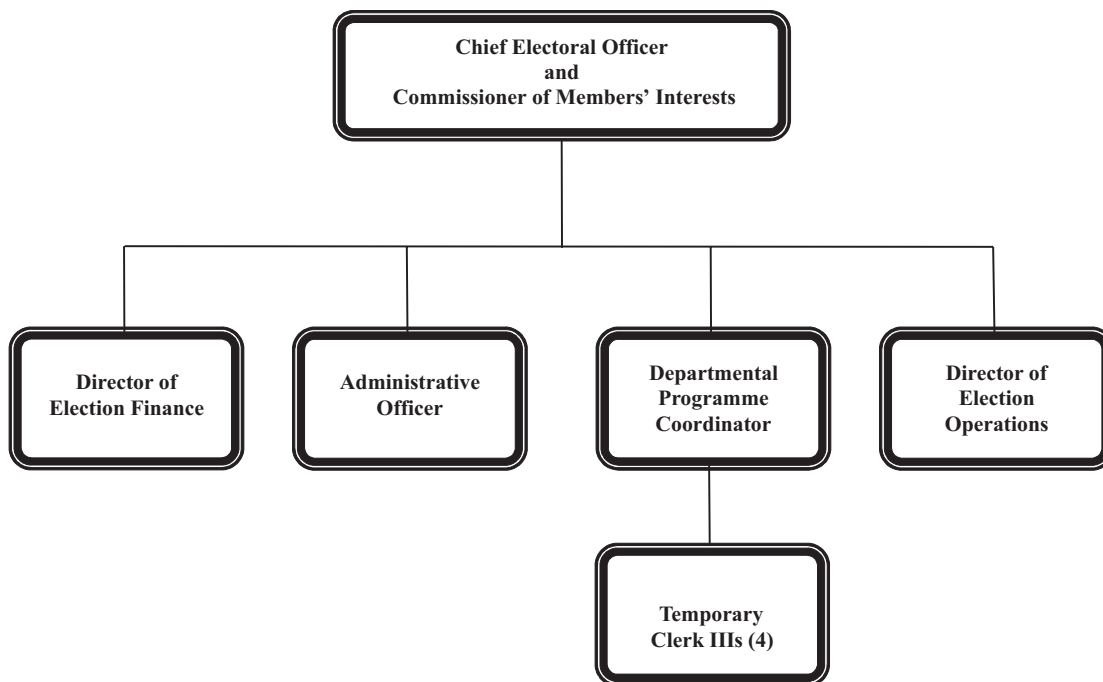
**Salaries and employee benefits**

As of 30 September 2005 the staff complement of the Office of the Chief Electoral Officer included 5 permanent positions and 4 temporary staff. The Office also hires additional temporary staff as required especially during general elections and by-elections.

Figure 3 shows the organization chart for the Chief Electoral Office.

**Figure 3**

**Office of the Chief Electoral Officer  
Organization Chart  
30 September 2005**



**Salaries and employee benefits**

We identified issues with regard to significant amounts of overtime, lack of consideration of alternate staffing arrangements, and lack of prior approval of overtime.

Figure 4 shows the regular salaries and overtime payments for the 4 permanent employees reporting to the Chief Electoral Officer, while Figure 5 shows the regular salaries and overtime payments for temporary employees.

**Figure 4**

**Office of the Chief Electoral Officer  
Regular Salaries and Overtime Payments  
Permanent Employees  
For Years Ending 31 March  
2003 to 2006**

Fiscal Year	Director of Election Finance	Administrative Officer	Departmental Programme Coordinator	Director of Election Operations	Total
<b>2003</b>					
Regular	\$ 57,951	\$ 32,296	\$ 36,649	\$ 48,637	\$ 175,533
Overtime (% of Regular)	0 (0.0%)	12,823 (39.7%)	22,940 (62.6%)	25,815 (53.1%)	61,578 (35.1%)
<b>Total</b>	<b>57,951</b>	<b>45,119</b>	<b>59,589</b>	<b>74,452</b>	<b>237,111</b>
<b>2004</b>					
Regular	61,567	34,267	40,310	52,586	188,730
Overtime (% of Regular)	3,081 (5.0%)	18,521 (54.0%)	46,484 (115.0%)	50,914 (96.8%)	119,000 (63.1%)
<b>Total</b>	<b>64,648</b>	<b>52,788</b>	<b>86,794</b>	<b>103,500</b>	<b>307,730</b>
<b>2005</b>					
Regular	63,212	34,377	39,489	52,406	189,484
Overtime (% of Regular)	0 (0.0%)	3,649 (10.6%)	8,175 (20.7%)	3,423 (6.5%)	15,247 (8.0%)
<b>Total</b>	<b>63,212</b>	<b>38,026</b>	<b>47,664</b>	<b>55,829</b>	<b>204,731</b>
<b>2006</b>					
Regular	63,215	37,316	57,836	52,409	210,776
Overtime (% of Regular)	0 (0.0%)	15,340 (41.1%)	43,544 (75.3%)	40,675 (77.6%)	99,559 (47.2%)
<b>Total</b>	<b>63,215</b>	<b>52,656</b>	<b>101,380</b>	<b>93,084</b>	<b>310,335</b>
<b>Grand Total Regular</b>	<b>\$ 245,945</b>	<b>\$ 138,256</b>	<b>\$ 174,284</b>	<b>\$ 206,038</b>	<b>\$ 764,523</b>
<b>Grand Total Overtime (% of Regular)</b>	<b>\$ 3,081 (1.3%)</b>	<b>\$ 50,333 (36.4%)</b>	<b>\$ 121,143 (69.5%)</b>	<b>\$ 120,827 (58.6%)</b>	<b>\$ 295,384 (38.6%)</b>

As Figure 4 shows, overtime payments totaling \$295,384 were paid to the four permanent staff in the last four years. This represents 38.6% of their regular annual salary. As evidence of the magnitude of the overtime, we note that during the fiscal year 2004, the Departmental Programme Coordinator received overtime payments of \$46,484 representing 115% of their regular salary of \$40,310. In another instance in 2004, the Director of Election Operations received overtime payments of \$50,914 representing 96.8% of their regular salary of \$52,586.

We identified the following issues relating to permanent employee overtime:

- We could not find any evidence that alternatives to the current staffing arrangements had been considered to minimize overtime. Government's Overtime Policy states that *"It is the responsibility of departments to plan work processes, program delivery and staff schedules to minimize overtime."* Although the Office is not a department of Government, the spirit and intent of this sound management practice should be followed for any office spending public money.
- Overtime is not approved in accordance with Government policy which requires *"...written prior approval for the performance of overtime..."* Instead, the Chief Electoral Officer provides a verbal approval of estimated overtime required. Furthermore, staff at the Office indicated that, in the case of a Provincial election, estimated overtime is subject to change and overtime performance sheets are not completed as time does not allow.

Without the prior approval of estimated overtime in writing, and the completion of overtime performance sheets, it is difficult to determine whether overtime is being adequately managed.

- The Director of Election Operations has been exempted from Government's Overtime Policy and as a result accumulates more overtime than would be available to other management employees (i.e. did not have to first accumulate 35 hours in an 8 week period). Although this person is classified as a HL 17 management employee subject to Government's Overtime Policy, in 1995 the Commission of Internal Economy approved a request from the then Chief Electoral Officer to exempt this person from Government's policy. During the last four years, this employee received a salary of \$206,038 and was paid overtime totalling \$120,827.

Figure 5

**Office of the Chief Electoral Officer**  
**Regular Salaries and Overtime Payments**  
**Temporary Employees**  
**For Years Ending 31 March**  
**2003 to 2006**

Fiscal Year	Regular Temporaries	Clerical/ Special Ballot	Election Finance	Part-Time Students	Drivers/ Helpers	Total
<b>2003</b>						
Regular	\$ 44,971	\$ 1,649	\$ 0	\$ 0	\$ 13,474	\$ 60,094
Overtime (% of Regular)	15,965 (35.5%)	1,136 (68.9%)	0 (0.0%)	0 (0.0%)	3,449 (25.6%)	20,550 (34.2%)
<b>Total</b>	<b>60,936</b>	<b>2,785</b>	<b>0</b>	<b>0</b>	<b>16,923</b>	<b>80,644</b>
<b>2004</b>						
Regular	87,633	65,824	14,674	10,496	72,708	251,335
Overtime (% of Regular)	53,550 (61.1%)	55,604 (84.5%)	1,395 (9.5%)	1,501 (14.3%)	50,541 (69.5%)	162,591 (64.7%)
<b>Total</b>	<b>141,183</b>	<b>121,428</b>	<b>16,069</b>	<b>11,997</b>	<b>123,249</b>	<b>413,926</b>
<b>2005</b>						
Regular	31,141	4,772	16,629	0	30,064	82,606
Overtime (% of Regular)	7,776 (25.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	7,776 (9.4%)
<b>Total</b>	<b>38,917</b>	<b>4,772</b>	<b>16,629</b>	<b>0</b>	<b>30,064</b>	<b>90,382</b>
<b>2006</b>						
Regular	73,312	10,535	0	0	14,997	98,844
Overtime (% of Regular)	7,320 (10.0%)	1,605 (15.2%)	0 (0.0%)	0 (0.0%)	1,876 (12.5%)	10,801 (10.9%)
<b>Total</b>	<b>80,632</b>	<b>12,140</b>	<b>0</b>	<b>0</b>	<b>16,873</b>	<b>109,645</b>
<b>Grand Total Regular</b>	<b>\$ 237,057</b>	<b>\$ 82,780</b>	<b>\$ 31,303</b>	<b>\$ 10,496</b>	<b>\$ 131,243</b>	<b>\$ 492,879</b>
<b>Grand Total Overtime (% of Regular)</b>	<b>\$ 84,611 (35.7%)</b>	<b>\$ 58,345 (70.5%)</b>	<b>\$ 1,395 (4.5%)</b>	<b>\$ 1,501 (14.3%)</b>	<b>\$ 55,866 (42.6%)</b>	<b>\$ 201,718 (40.9%)</b>

As Figure 5 shows, overtime payments totalling \$201,718 were paid to temporary employees in the last four years. This represents 40.9% of their regular annual salary. As evidence of the magnitude of the overtime, we note that during the fiscal year 2004, 8 of these employees received overtime payments in excess of their regular salary. In these 8 instances, the regular salaries totalled \$20,772 while the overtime payments totalled \$29,662.



We identified the following issues relating to temporary employee overtime:

- We could not find any evidence that alternatives to the current staffing arrangements had been considered to minimize overtime. Government's Overtime Policy states that "*It is the responsibility of departments to plan work processes, program delivery and staff schedules to minimize overtime.*" Although the Office is not a department of Government, the spirit and intent of this sound management practice should be followed for any office spending public money.
- Overtime is not approved in accordance with Government policy which requires "...*written prior approval for the performance of overtime...*" Instead, the Chief Electoral Officer provides a verbal approval of estimated overtime required. Furthermore, staff at the Office indicated that, in the case of a Provincial election, estimated overtime is subject to change and overtime performance sheets are not completed as time does not allow.

Without the prior approval of estimated overtime in writing, and the completion of overtime performance sheets, it is difficult to determine whether overtime is being adequately managed.

---

**Inappropriate bereavement leave**

Our review of recorded salaries and employee benefits identified one instance where bereavement leave of one day was extended to an employee for the death of a relative not provided for under Government's Bereavement Leave Policy.

---

**C. Compliance with the *Public Tender Act***

**Non-compliance with the *Public Tender Act***

The *Public Tender Act* requires Government funded bodies to invite tenders where the cost of goods and services is more than \$10,000 or a public work is more than \$20,000. The *Act* provides exceptions where tenders may not be required to be invited and in these cases the Government Purchasing Agency must be informed. The Chief Executive Officer of the Government Purchasing Agency in turn sends a report of these cases to the Speaker of the House of Assembly for tabling in the House. The *Act* also requires that, where the cost of goods and services is \$10,000 or less or public work is \$20,000 or less, the Government funded body shall either obtain quotations from at least three suppliers or establish for the circumstances a fair and reasonable price.

Our review identified 6 expenditures during the fiscal year 2004 in excess of \$10,000, totaling \$213,265, for which no public tenders were called and no Form B - Contract Awarded Without Tender Invitation, was filed with the Government Purchasing Agency. As a result, the House of Assembly was not informed of these cases where tenders were not called.

Details on these 6 exceptions are outlined in Figure 6.

Figure 6

**Office of the Chief Electoral Officer  
Public Tender Exceptions  
Year Ending 31 March 2004**

<b>Date</b>	<b>Amount</b>	<b>Type of Expenditure</b>	<b>Issue</b>
14 Nov 2003	\$ 62,247	Newspaper ad	No public tender and Form B not filed
14 Nov 2003	59,287	Newspaper ad	No public tender and Form B not filed
14 Nov 2003	24,423	Newspaper ad	No public tender and Form B not filed
14 Nov 2003	23,899	Newspaper ad	No public tender and Form B not filed
14 Nov 2003	12,810	Newspaper ad	No public tender and Form B not filed
1 Jan 2004	30,599	Telephone services	No public tender and Form B not filed
<b>Total</b>	<b>\$ 213,265</b>		

**D. Maintenance of Accounts**

**General**

The Chief Electoral Office enters its own accounting information into Government's Oracle Accounting System and receives monthly expenditure transaction reports. Our review of the Office's accounting processes and records identified significant internal control weaknesses and inaccuracies in expenditure account balances. We found the following:

- Expenditures entered into the Oracle Accounts Payable Module by staff at the Office of the Chief Electoral Officer are approved for payment in Oracle by staff of the Office of the Clerk of the House of Assembly without either requesting or seeing the original invoices. This is a serious weakness in the system of internal control at both the Office of the Chief Electoral Officer and at the Office of the Clerk of the House of Assembly.

- No expenditures have been charged to the Office for telephone land lines. These expenditures are paid through the accounts of the House of Assembly. As a result, the full cost of Office operations is not being reflected in its accounts.
- Expenditures charged to the Office for photocopiers provided to it under leasing arrangements coordinated by the House of Assembly are inaccurate and incomplete. At year end, the Director of Financial Operations arbitrarily allocates cost among various offices; however, no details are available as to what basis the allocations were made. As a result, the proper cost of Office operations may not be reflected in its accounts.
- Temporary salaries of \$31,615 were charged in error to permanent salaries; therefore, the account balances were not accurate.

In 8 instances, expenditures were charged to the wrong account. In 1 instance, travel expenditures of \$379 for the Chief Electoral Officer were charged in error to Travelling-Other Employees when the amounts should have been charged to Travelling-Executive. In 2 instances totalling \$1,694, entertainment amounts claimed by the Chief Electoral Officer were charged in error to General Purchased Services when the amounts should have been charged to Entertainment. In 5 instances totalling \$5,113 travel claims submitted by other staff of the Chief Electoral Officer were charged in error to accounts other than Travelling-Other Employees.

---

## **E. Travel**

---

### **Travel expenditures**

Figure 7 provides detailed information on travel expenditures from 1 April 2003 to 31 March 2006.

Figure 7

**Office of the Chief Electoral Officer  
Travel Expense Claims  
Years Ending 31 March  
2004 to 2006**

Details	2004	2005	2006	Total
For Chief Electoral Officer	\$ 491	\$ 932	\$ 82	\$ 1,505
For employees of the Office of the Chief Electoral Officer	\$63,220	\$15,072	\$18,863	\$97,155

Our review of travel claims identified the following issues:

**Travel Claims - Chief Electoral Officer**

Our review of the travel claims submitted by the Chief Electoral Officer identified two instances where amounts claimed for entertainment did not comply with Government's Executive Compensation Policies and Procedures.

- Entertainment expenses totaling \$905 for a luncheon in August 2003 were not submitted on a separate travel claim form, did not indicate the names of the individuals in attendance, and were not specifically approved by Treasury Board as is the requirement for amounts in excess of \$300.
- Entertainment expenses of \$805 for a luncheon in May 2005 also did not indicate the names of the individuals in attendance and again were not specifically approved by Treasury Board.

### Travel Claims Other Staff

Our review of the travel claims and related documentation submitted by staff of the Office of the Chief Electoral Officer identified the following:

- On 7 January 2005 an airline ticket was purchased (\$530) for the Departmental Programme Coordinator to travel from St. John's to Toronto in April 2005. The Journey Authorization for this trip was approved by the Chief Electoral Officer and indicated that the purpose was to attend the Electoral Technology Accord meeting in Toronto which was held from 4 April to 6 April. The approved departure date was Monday, 4 April 2005, with a return date of Saturday, 9 April 2005. Issues identified regarding this trip are as follows:
  - On 7 March 2005 the travel arrangements were revised to provide for an earlier initial departure date. Contrary to the Journey Authorization which approved a departure for Monday, 4 April 2005, the employee was now leaving St. John's, 1:30 pm Sunday, 3 April 2005. The additional cost associated with the change in airfare for the earlier initial departure date was \$183.
  - Contrary to the Journey Authorization which approved a trip from St. John's to Toronto return, the employee travelled to Montreal. The employee departed Toronto, 6:30 am, Thursday, 7 April 2005 and arrived in Montreal, 7:41 am, and left Montreal, 8:15 pm, Saturday, 9 April 2005 arriving St. John's 12:07 am, Sunday, 10 April 2005.
  - While there was no indication on the Official Journey Authorization that the employee had work related duties to perform in Montreal, the Weekly Attendance Record for the period covering the trip indicated that the individual was "OHMS" (On Her Majesty's Service) on Thursday, 7 April 2005, and in her headquarters location on Friday, 8 April 2005, i.e. when the travel itinerary shows that the employee was in Montreal.
  - There was no apparent reason why the employee was able to leave Toronto early Thursday morning, given that the Journey Authorization had the employee in Toronto until Saturday.

- The travel claim also included \$32 for the provision of internet service to a room at a Montreal hotel. However, the invoice submitted in support of this claim was in the name of an individual (the spouse of the former Premier) not working at the Office of the Chief Electoral Officer.
- Expenditures of \$414 for an airline ticket for travel to Fredericton. Due to unforeseen circumstances the ticket could not be used and was returned for credit. The credit was not used within the required one-year timeframe and the opportunity for use was lost.

---

## F. Other Expenditures

---

### *Cellular Telephones*

At 31 March 2006, the Office of the Chief Electoral Officer had four cellular telephones - one for the Chief Electoral Officer and one for three of the four other permanent employees. Officials indicated that during periods when general elections or by-elections are held, the number of cellular telephones increases by up to six phones.

Figure 8 shows cellular telephones expenditures for the three years 1 April 2003 to 31 March 2006.

### **Figure 8**

**Office of the Chief Electoral Officer  
Cellular Telephone Expenditures  
Years Ended 31 March  
2004 to 2006**

<b>Year</b>	<b>Cellular telephone expenditures</b>
2004	\$ 6,690
2005	1,892
2006	1,572
<b>Total</b>	<b>\$ 10,154</b>

Our review of cellular telephones at the Office of the Chief Electoral Officer identified the following issues:

- Controls over expenditures for cellular telephones are inadequate. Expenditures for cellular telephone services contained no evidence of review by the user to verify charges, no evidence of review and approval by the user's immediate supervisor, and no evidence of employee identification of personal usage above the free service level provided under the contract.
- We identified 47 instances relating to 7 cellular telephones where usage exceeded the monthly free service level of 200 minutes allowed under the package purchased.

Of these 47 instances, 37 (79%) related to 2 cellular telephones (29 instances and 8 instances). For the cellular telephone which had 29 instances exceeding the 200 minute free service level, the usage totalled 15,613 minutes over a 30 month period, or on average 520 minutes per month. We examined 4 monthly billings of these 29 instances (total of 2,960 minutes) and found that a significant portion of the usage time related to normal business hours when land lines were available. Also, we identified air time usage above the 200 minute free service level which related to personal usage.

Of particular note is that after we commenced our review and inquired about cellular telephone usage, the staff member who had 29 instances exceeding the 200 minute free service level reimbursed the Province over \$600 for personal usage.

---

### *Public Service Week Expenditures*

Expenditures of \$357 for a staff barbeque during Public Service Week included \$138 for alcohol and \$219 for food and related items. Twelve persons were indicated to have attended, for an average cost of \$30 per employee. Government's suggested total funding is \$20 per employee.

---

*Reimbursement of Educational Courses*

Three claims totalling \$1,500 were made for reimbursement of educational courses undertaken by staff. These payments were made contrary to Government policy in that the two employees were reimbursed 100% of education expenditures (not the 50% Government provides to employees) and were reimbursed for all textbooks and other costs (Government does not provide any reimbursements for such costs). Course fees totalled \$1,168 while textbooks and other costs, including student union fees of \$13 and recreation facility access fees of \$80, totalled \$332. Furthermore, in two of the three instances the reimbursements were made in advance of completing the course.

---

**Recommendations**

---

***Conflict of interest for hiring***

*The Office of the Chief Electoral Officer should:*

- *ensure compliance with the Conflict of Interest Act in hiring temporary staff; and*
  - *use an objective process for hiring temporary employees.*
- 

***Conflict of interest for purchasing***

*The Office of the Chief Electoral Officer should avoid conflict of interest situations with regards to purchasing.*

---

***Overtime***

*The Office of the Chief Electoral Officer should:*

- *consider alternatives to current staffing arrangements to minimize overtime; and*
  - *require prior written approval of all overtime.*
-



## Office of the Chief Electoral Officer

---

### *Accounting records and internal controls*

*The Office of the Chief Electoral Officer should:*

- *accurately maintain all accounting records; and*
  - *require that supporting documentation be reviewed prior to expenditures being approved for payment.*
- 

### *Other expenditures*

*The Office of the Chief Electoral Officer should:*

- *comply with the Public Tender Act;*
  - *require that all travel be in accordance with approved Journey Authorizations;*
  - *make expenditures in accordance with established policies and procedures;*
  - +
    - *adequately monitor cellular telephone use; and*
  - *comply with Government's policy for reimbursing education expenditures.*
- 

## Office of the Chief Electoral Officer's Response

---

*We thank the Auditor General and his staff for their review of the financial operations of the office of the Chief Electoral Officer.*

*We advise that our office, in consultation with the Office of the Speaker and the Office of the Clerk of the House of Assembly have already implemented changes to more accurately maintain our accounting records and to ensure compliance with the Conflict of Interest Act and the Public Tendering Act as recommended in the Auditor General's Report.*

*It should be noted that the Premier has appointed Chief Justice Derek Green to review the practices of the House of Assembly as it relates to the spending of Constituency Allowance for MHA's. As part of that report, it is expected that Chief Justice Green will also recommend changes respecting financial management and controls in the HOA administration*

*generally. This report is expected to be completed by January 31, 2007. We look forward to implementing changes that are introduced by the Clerk's Office as they relate to the financial operations/accountability of the Office of the Chief Electoral Officer.*

*The period covered by the AG's Report was in fact under the administration of the previous Chief Electoral Officer. We wish to advise that the previous Chief Electoral Officer reviewed the Auditor General's report and participated in offering some of the following responses to the findings. We thank him for his assistance in this regard.*

#### **A. Conflict of Interest**

##### **Conflict of Interest over Hiring**

*An election is usually conducted over a 23 day period and until recent legislative changes concerning fixed term elections, there was little, if any, advance notice of the timing for a General Election.*

*The Office of the Chief Electoral Officer employs over 4,000 people during a General Election and is very much a project based operation. Consequently the most cost effective way to operate has been to utilize temporary staff and callbacks.*

*Prior to the implementation of fixed date Elections it was virtually impossible to advertise, interview and select the number of temporary staff required for a 23 day campaign. To effectively respond to demands in this environment we have relied on word of mouth and call back for staffing of temporary employees. Even with this approach the tight time frame makes it extremely difficult to complete the requisite paperwork.*

*During efforts to prepare for, deliver and complete follow up work on the 2003 General Election and one by election and also for work relating to Elections Canada projects and a provincial municipal election, three short term temporary employees who were related to other staff members were hired, each for a three week period, for a total cost of approximately \$3,500. With fixed election dates now in effect and the increased ability to identify upcoming projects associated with preparing for a fixed date event, we will ensure that this will not occur in the future.*

*As to the hiring of non dependent temporary staff, the Office has been advised by Treasury Board that:*

***“the hiring of short term temporary employees, less than 6 months, for non bargaining unit jobs can be done without a competition/advertising. The process of recalling employees previously hired is fair and equitable.”***

### ***Conflict of Interest over Purchasing***

*The Chief Electoral Office does not dispute the statements made in the Auditor General's Report. Members of this Office were informed that the spouse of the Director of Financial Operations for the House of Assembly owned a company. Since the Director of Financial Operations for the House of Assembly is not an employee of this Office, we offer no comments as to whether that person was in a conflict of interest.*

*All goods purchased from the company were received and accounted for by the Office of the Chief Electoral Officer. Furthermore it is our understanding that organizational/staffing action is being taken to improve existing procedures and as a result internal controls at the House of Assembly.*

### ***B. Salaries and Employee Benefits***

*As the Auditor General pointed out, this Office has a permanent staff complement of 5 people.*

*Elections and projects related to preparation for elections are of necessity completed within finite and legislated time frames. Although this Office has endeavored to increase the full time staff complement because of an increasing workload due to the implementation of a database exchange with Elections Canada, provincial municipalities and school boards, the approach preferred by the Internal Economy Commission and House of Assembly, continues to be to maintain the staff compliment at its current level.*

*The Elections Act requires that qualified electors be able to vote by Special Ballot if they so choose. As a result, our office is open 7 days a week to the general public from 8 a.m. to 8 p.m. during electoral events for those who wish to avail of this form of voting. Specially trained staff who conduct special ballot voting must be available to ensure that applications can be processed in a timely fashion and to answer general election related questions. This requires additional staffing, particularly during general elections and by elections. For reference, during the 2003 General Election, 10,567 electors cast their vote by Special Ballot.*

*The Auditor General states that he could find no evidence to indicate that alternatives to current staffing arrangements were considered to minimize overtime. We believe alternatives were considered. An increase of 3 full time positions was requested during the 2006-07 budget deliberations but the decision of the Internal Economy Commission was to maintain the existing core complement in order to retain flexibility.*

*We wish to advise the Auditor General that we will be requesting an additional 4 full time permanent staff positions in our 2007-08 budget submission. These individuals will be responsible for the continual update and maintenance of the permanent voters list, through data and contact with Elections Canada, municipalities and other provincial agencies.*

*The Auditor General also noted that one of the main reasons for high overtime costs was the exemption from normal overtime policy given the Director of Elections Operations in 1995 by the Internal Economy Commission. It should be noted that the request for exemption was initially submitted to the Internal Economy Commission in 1994. The Internal Economy Commission forwarded the request to Treasury Board on January 19, 1995 for their review. Treasury Board approved the exemption to normal overtime policy on December 22, 1995 under TBM 95-538. This decision was later reconfirmed by the Internal Economy Commission on January 4, 1996.*

*Not mentioned in the Auditor General's Report was that in 2003-04, considerable overtime costs were incurred to meet requirements of Elections Canada for specific project work, which was **cost shared** (50/50) by Elections Canada.*

*Discounting these two factors and acknowledging the earlier reference to permanent versus temporary/overtime staffing provides a contextual framework for overtime levels.*

*The Auditor General's Report also indicates that overtime is not approved in accordance with Government policy which requires written prior approval. It is important to note that an estimate for overtime is included in the budget requests for General Elections, By Elections and special projects. These budgets are approved by the Internal Economy Commission.*

*Although we make the best possible effort to identify staffing levels and overtime requirements for these events it is difficult to identify a fixed dollar amount in advance of their occurrence. Although prior written approval was not specifically provided, overtime was and is monitored carefully to ensure that we are operating within our budget.*

### ***Inappropriate Bereavement Leave***

*An employee of our office took one day of bereavement leave for the death of a relative that was not covered under the Government's Bereavement Leave Policy. This was an error only and the employee has since paid back the one day Leave.*

### ***C. Non Compliance with the Public Tender Act***

*The six instances referred to here relate to newspaper and telephone services, two critical activities in every election. The contravention to the Public Tender Act related to not completing a form, called Form B, which the Act requires. It was purely an oversight that regrettably did not get reported to the House of Assembly. Critical time lines during the electoral period and post election resulted in this Form not being completed.*

*We will endeavor to arrange work procedures to prevent future occurrences.*

### ***D. Maintenance of Accounts***

*As noted by the AG's Office, our office enters its own accounting information into Government's Oracle Accounting System. Approval for all purchases and payments in Oracle rests in the Office of the Clerk of the House of Assembly.*

*Past practice initially was to courier batched documents to the House of Assembly for approval, but this resulted in unnecessary delays and occasionally misplaced or forgotten documents. Over time, it was suggested that the original batched documents be retained at OCEO and that a phone call or email be forwarded to the accounting staff in the Clerk's Office to let them know that invoice batches were entered and ready for approval in the Oracle system. We believe the AG's report is somewhat inaccurate, as although it indicates that invoices are sometimes approved without being seen, it fails to indicate that all invoices received at OCEO, prior to being keyed for payment, must be "certified for payment" by either the Director of Election Finance, Director of Election Operations or the Chief Electoral Officer. The original invoices are subsequently forwarded to the Department of Finance for processing.*

*Weaknesses identified in the charging of expenditures to accounts relate to the interaction between the Office of the Chief Electoral Officer and the House of Assembly Office. It is our understanding that action taken by the House of Assembly Office with respect to their staffing and reporting should result in better internal control.*

**E. Travel**

**a) Chief Electoral Officer**

*Entertainment expenses incurred by the Chief Electoral Officer related to the hosting of inter-jurisdictional meetings. Although the names of participants were inadvertently omitted, these names are contained in the minutes of the meetings held during their stay in the Province.*

*With respect to seeking authority from Treasury Board, budget approval was sought and received from the Internal Economy Commission during our budget submission for the fiscal year.*

**b) Other Staff**

*We endeavor to book airline tickets far enough in advance to take advantage of cheaper fares. Unfortunately in the case identified in the Auditor General's report the start time for the meeting changed and we had to incur an additional \$183 to change the ticket for an earlier departure time. We acknowledge that the Journey Authorization should have been changed to reflect this. The Montreal segment of the trip was after the conference but the employee ended up working, via internet, with Elections Canada negotiating a contract with regard to a proposed federally funded addressing project. All accommodations and meal costs were paid for by the employee, with the exception of the internet source required to process information with Elections Canada. As a point of interest the cost of the airline ticket was cheaper as a result of travelling through Montreal than if the employee had traveled direct from Toronto.*

**F. Other Expenditures**

*As a result of the review of the Auditor General of cell phone usage, supervisors now review all cell phone usage of their staff. Any costs above the contracted amount are reviewed for personal use and reimbursed when necessary.*

*Earlier usage above the contract amount was the result of employees not being familiar with the contract.*

*With respect to reimbursement for educational courses, the Office will seek direction from the Internal Economy Commission on an individual basis.*

**CONCLUSION**

*The Office of the Clerk of the House of Assembly is presently awaiting the report of Chief Justice Green on the operations of the House of Assembly. Any changes implemented by the House of Assembly will likely affect the operations of our office as well. We look forward to reviewing his recommendations and hope that the changes will ultimately improve our operations and allow us to carry out our mandate without undue impediments.*

*Again, we thank the Auditor General and his staff for their review and advise that many of the recommendations identified have already been implemented. Other changes will follow to improve the functionality of our office and ensure compliance with legislation.*



# Highlights

Highlights of a monitoring review of agencies of the Crown in the Province as of 31 March 2006.

## Why our Office Did this Review

A major role of the Office of the Auditor General is to monitor Crown agencies and provide information to the House of Assembly. Section 14 of the Auditor General Act requires the auditor of an agency of the Crown or a Crown controlled corporation to deliver to the Auditor General, after completion of the audit, a copy of the auditor's report, audited financial statements and recommendations to management. These financial statements and management letters along with our Office's audits of Crown agencies provide the basis for our monitoring of all Crown agencies.

This table summarizes the agencies of the Crown in the Province as of 31 March 2006.

Description	2006	2005
Agencies required to prepare financial statements	67	77
Agencies considered non-financial and did not prepare financial statements	72	71
<b>Total</b>	<b>139</b>	<b>148</b>

Any expenditure related to the operation of the 72 non-financial entities are included with those of the Government department responsible for the entity and we audit these annually as part of our audit of the Public Accounts of the Province.



To view the full report, refer to the web site [www.gov.nl.ca/ag/reports.htm](http://www.gov.nl.ca/ag/reports.htm). For more information, contact Nina Goudie, Director of Information Resources, 709-729-2346 or [ninagoudie@gov.nl.ca](mailto:ninagoudie@gov.nl.ca).

Chapter 2, Part 2.3

## MONITORING AGENCIES OF THE CROWN

The report summarizes our observations of the audited financial statements and management letters of Crown agencies that we have either prepared as auditor or received from private auditors. To assist us in this task, we maintain information found in these documents in our computerized system. This system provides the basis for our monitoring of all Crown agencies. Our observations are as follows:

### What We Found

#### (a) Compliance with section 14

Of the 67 (2005 – 77) entities required to prepare annual financial statements, 30 (2005 - 30) were audited by our Office while 35 (2005 - 45) were audited by private sector auditors. Contrary to their governing legislation, the remaining 2 entities, the Memorial University Foundation and the Newfoundland and Labrador Occupational Therapy Board have never submitted audited financial statements.

#### (b) Statements not released by our Office

As of 10 January 2007, the audit of the financial statements for the following 4 entities audited by our Office could not be completed because the entities have not provided the necessary information:

- C.A. Pippy Park Commission for the year ended 31 March 2006;
- C.A. Pippy Park Golf Course Ltd. for the year ended 31 March 2006;
- Newfoundland and Labrador Legal Aid Commission for the years ended 31 March 2005 and 31 March 2006; and
- Newfoundland Government Fund Limited for the years ended 31 December 2004 and 31 December 2005.

#### (c) Statements not received from private sector auditors as required

As of 10 January 2007, we had not received the audited financial statements and management letter for 1 of the 35 entities audited by private sector auditors. That entity is the Breast Screening Program for Newfoundland and Labrador.

For the majority of the remaining 34 entities, we did not receive the audited financial statements and management letters from the private sector auditors on a timely basis. On average, these audits were completed and the auditor's reports signed within 3 months after the year-end. However, in most cases, our Office does not receive the financial statements and related management letters until another 4 months after the audit report date, and often only after follow-up by our Office.

#### (d) Highlights from Audited Financial Statements

For 2006, 9 entities (2005 - 18) reported a total bank indebtedness of \$72 million (2005 - \$96 million).

For 2006, 2 entities (2005 - 4), the auditor's report contained a qualification. Both entities did not comply with Canadian generally accepted accounting principles with regard to recording and amortizing capital assets. In addition, the auditor's report for 1 of these 2 entities was also qualified because it recognized the teachers' severance and accrued vacation pay in its financial statements without an offsetting grant receivable from the Provincial government.



### Introduction

---

#### Legislative requirement

A major role of the Office of the Auditor General is to monitor Crown agencies and provide information to the House of Assembly. Section 14 of the *Auditor General Act* requires the auditor of an agency of the Crown or a Crown controlled corporation to deliver to the Auditor General, after completion of the audit, a copy of the auditor's report, audited financial statements and recommendations to management. These financial statements and management letters along with our Office's audits of Crown agencies provide the basis for our monitoring of all Crown agencies.

---

#### Agencies of the Crown

This table summarizes the agencies of the Crown in the Province as of 31 March 2006.

Description	2006	2005
Agencies required to prepare financial statements	67	77
Agencies considered non-financial and did not prepare financial statements	72	71
<b>Total</b>	<b>139</b>	<b>148</b>

Any expenditure related to the operation of the 72 non-financial entities are included with those of the Government department responsible for the entity and we audit these annually as part of our audit of the Public Accounts of the Province.

---

### Observations

---

#### Introduction

This report summarizes our observations of the audited financial statements and management letters of Crown agencies that we have either prepared as auditor or received from private auditors. To assist us in this task, we maintain information found in these documents in our computerized system. This system provides the basis for our monitoring of all Crown agencies.

---

## Monitoring Agencies of the Crown

---

### **Compliance with Section 14**

Of the 67 (2005 - 77) entities required to prepare annual financial statements, 30 (2005 - 30) were audited by our Office while 35 (2005 - 45) were audited by private sector auditors. Contrary to their governing legislation, the remaining 2 entities, the Memorial University Foundation and the Newfoundland and Labrador Occupational Therapy Board have never submitted audited financial statements.

---

### **Statements not released by our Office**

As of 10 January 2007, the audit of the financial statements for the following 4 entities audited by our Office could not be completed because the entities have not provided the necessary information:

- C.A. Pippy Park Commission for the year ended 31 March 2006;
  - C.A. Pippy Park Golf Course Ltd. for the year ended 31 March 2006;
  - Newfoundland and Labrador Legal Aid Commission for the years ended 31 March 2005 and 31 March 2006; and
  - Newfoundland Government Fund Limited for the years ended 31 December 2004 and 31 December 2005.
- 

### **Statements not received from private sector auditors as required**

As of 10 January 2007, we had not received the audited financial statements and management letter for 1 of the 35 entities audited by private sector auditors. That entity is the Breast Screening Program for Newfoundland and Labrador.

For the majority of the remaining 34 entities, we did not receive the audited financial statements and management letters from the private sector auditors on a timely basis. On average, these audits were completed and the auditor's reports signed within 3 months after the year-end. However, in most cases, our Office does not receive the financial statements and related management letters until another 4 months after the audit report date, and often only after follow-up by our Office.

---

## Highlights from Audited Financial Statements

### Introduction

As part of our monitoring of Crown agencies, we review audited financial statements resulting from audits completed either by private sector auditors or by our Office.

### Bank indebtedness

For 2006, 9 entities (2005 - 18) reported a total bank indebtedness of \$72 million (2005 - \$96 million).

### Audit qualifications

For 2006, 2 entities (2005 - 4), the auditor's report contained a qualification. Both entities did not comply with Canadian generally accepted accounting principles with regard to recording and amortizing capital assets. In addition, the auditor's report for 1 of these 2 entities was also qualified because it recognized the teachers' severance and accrued vacation pay in its financial statements without an offsetting grant receivable from the Provincial government.

## Highlights from Management Letters

### Introduction

As part of our monitoring of Crown agencies, we review management letters resulting from audits completed either by private sector auditors or by our Office.

### Status of Letters

This table outlines the status of management letters as of 10 January 2007 for the entities audited either by private sector auditors or by our Office.

Management letters	Private Sector Auditor	Our Office	Total
Letters which identified issues	10	19	29
Letters which indicated no issues identified	0	6	6
No letter issued	19	0	19
Letters not finalized	6	5	11
<b>Total</b>	<b>35</b>	<b>30</b>	<b>65</b>

## Monitoring Agencies of the Crown

### Common issues

This table outlines the common issues found in our review of the management letters.

Issue	2006	2005
<b>Non-compliance with Legislation</b>		
Non-compliance with the <i>Public Tender Act</i>	0	2
Non-compliance with other legislative authorities	1	4
<b>Internal Control Weaknesses</b>		
Issues with the handling of money and bank accounts such as cash shortages and cheques being issued with one signature	9	14
Theft of petty cash funds	1	0
Issues with the collection of accounts receivable	10	6
Weaknesses in controls over purchasing of goods and services including purchase orders not being used and purchases not being authorized	9	6
Issues with travel and entertainment claims such as over payment and unauthorized expenses	2	1
Issues with payrolls such as payroll advances and the approval of time sheets	7	4
Weaknesses in controls over capital assets, the most significant of which was the lack of a capital asset ledger	7	7
<b>Other Issues</b>		
Issues regarding the Harmonized Sales Tax	3	4
Computer related issues such as the lack of a disaster recovery plan	4	6
Issues with the board of directors such as frequency of meetings, approval of minutes and minimal activity	5	7



## Highlights

Highlights of a review of the College of the North Atlantic for the period 1 April 2003 to 31 March 2005.

### Why our Office Did this Review

We undertook this review to determine if College expenditures were properly approved, monitored and controlled and whether the College complied with legislation such as the *College Act, 1996* and the *Public Tender Act and Regulations*, and Government and College policy.

### What our Office Recommends

Our Office recommends that the College comply with Government compensation policies regarding payment of bonuses, salary differentials, appointments, step increases, promotions, overtime pay and leave, and comply with Government's recruitment policies for creating positions, position classifications, job competitions and step placements. We also recommend that the College:

- ensure employment contracts have the prior approval of Treasury Board and the Department of Justice;
- properly monitor expenditures and comply with Government policy;
- establish an objective approach for the selection of all consultant services;
- comply with the *Public Tender Act and Regulations*; and
- adequately record, monitor and safeguard capital assets.

### What the College Said

To provide balance to this report and to ensure full disclosure, the College was asked to formulate a response to our findings and conclusions. The College's response, verbatim, is included at the end of this report. Readers are encouraged to consider the College's comments in this regard.



To view the full report, refer to the web site [www.gov.nl.ca/ag/reports.htm](http://www.gov.nl.ca/ag/reports.htm). For more information, contact Nina Goudie, Director of Information Resources, 709-729-2346 or [ninagoudie@gov.nl.ca](mailto:ninagoudie@gov.nl.ca).

### Chapter 2, Part 2.4

#### COLLEGE of the NORTH ATLANTIC

The College of the North Atlantic is Newfoundland and Labrador's only public college. Each year, the College offers over 100 full-time programs and 300 part-time courses to about 20,000 students at its 17 campuses in Newfoundland and Labrador (18,800 students) and its campus in Qatar (1,200 students). Annually, over 3,000 students graduate from the College's certificate and diploma programs.

#### What We Found

Overall, there are significant concerns with expenditures and human resource practices at the College of the North Atlantic. A lack of adherence to Government policy, particularly in the human resources area, has led to questionable transactions and resulted in instances of inappropriate expenditures of public funds.

##### (a) Non-compliance with compensation practices

The College was not always complying with Government's compensation practices. We identified unauthorized cash bonuses, inappropriate salary differentials, inappropriate salaries relating to appointments, step increases and promotions, unapproved and questionable overtime, and inappropriate accumulation and use of leave.

##### (b) Non-compliance with recruitment policies

Contrary to the requirements of the *College Act, 1996*, the College is not complying with Government's recruitment policies. We found that required job competitions were not always conducted and managers were appointed upscale without the required documented approval of the President.

##### (c) Qatar - inappropriate gifts and compensation practices

There were 6 employees who were in a conflict of interest regarding the inappropriate retention of significant monetary gifts (some at \$20,000 US). There were also 2 board members who, contrary to board policy, accepted monetary gifts of \$20,000 US. In addition, none of the 164 employment contracts had been reviewed by the Department of Justice or approved by Treasury Board, and employees earned significantly more salary and received increased benefits and pensions.

##### (d) Expenditure issues

There were issues with expenditures such as inadequate approvals and non-compliance with Government and College policy. Professional development expenses were not approved in advance, car allowances were paid contrary to Government's car allowance policy, senior employee travel was not always properly approved, retirement gifts were purchased for non-executive pay plan employees, ineligible relocation expenses were paid, and four consulting contracts were awarded without inviting proposals.

##### (e) *Public Tender Act* contravened

Goods and services were purchased in contravention of the *Public Tender Act*. Three purchases totalling \$9,136,123 were not publicly tendered, while in 2 other instances totalling \$68,478, the Minister of Government Services was not informed of the sole source exceptions and therefore the exceptions were not tabled in the House of Assembly.

##### (f) Capital assets inadequately controlled

The College does not adequately record, monitor and safeguard its capital assets. The College's capital asset ledger was not accurate, not all moveable electronic equipment could be located, some portable computers were kept at employees' homes and monitoring information on 58 College vehicles was not accurate.

##### (g) College's Labrador campus lease

Contrary to Government policy, the College entered into a lease arrangement and, over a 4 month period, paid \$120,000 more than the previous lease payments which the Department of Works, Services and Transportation considered appropriate.

## Introduction

---

### Mandate

The College of the North Atlantic is Newfoundland and Labrador's only public college. The College is governed by the *College Act, 1996* and through its Board of Directors appointed by the Lieutenant-Governor in Council.

The mandate of the College is to provide accessible, responsive, quality learning opportunities, which support a competent and educated work force that can participate in the national and global labour market.

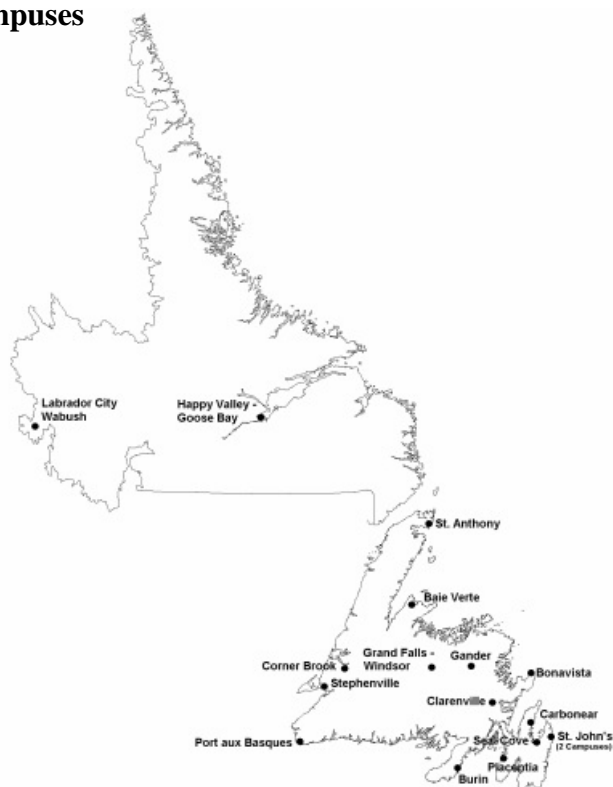
Each year, the College offers over 100 full-time programs and 300 part-time courses to about 20,000 students at its 17 campuses in Newfoundland and Labrador (18,800 students) and its campus in Qatar (1,200 students). Annually, over 3,000 students graduate from the College's certificate and diploma programs.

---

### Map

The following map shows the location of the 17 campuses in Newfoundland and Labrador.

#### College campuses



**Operating results**

The College's total expenditures in 2004-05 were \$89.0 million, of which the Province funded \$47.9 million in grant-in-aid. Figure 1 shows the operating results from 2001 to 2005.

**Figure 1**

**Operating Results  
Years ended 31 March  
(\$000's)**

	2001	2002	2003	2004	2005
<b>Revenue:</b>					
Grant-in-aid	\$44,415	\$46,603	\$47,267	\$49,093	\$47,915
Other grants and subsidies	13,178	13,092	13,899	14,895	14,891
Contracts	11,193	9,619	11,818	13,166	11,492
Tuition and student fees	9,721	10,455	10,142	9,865	9,651
Sales and rentals	5,385	5,437	5,470	5,403	5,382
Other	2,127	1,300	1,466	1,379	1,081
Qatar (net)	-	204	599	478	764
<b>Total revenue</b>	<b>86,019</b>	<b>86,710</b>	<b>90,661</b>	<b>94,279</b>	<b>91,176</b>
<b>Expenditure:</b>					
Salaries and benefits	58,762	63,355	66,564	69,547	67,884
Professional development and employee recognition	459	539	455	455	328
Professional fees	934	580	829	935	711
Travel	1,688	1,837	1,685	1,514	1,035
Recruitment and relocation	89	122	96	79	172
Telephone and utilities	2,176	1,973	2,217	2,152	2,255
Repair and maintenance	1,184	1,368	1,183	1,287	1,034
Vehicle operations	204	477	556	450	527
Facilities and equipment rentals	1,220	1,348	1,375	1,322	1,227
Contract services	464	769	706	767	748
Contributions to projects	579	686	605	364	849
Computer and minor equipment	2,219	2,445	3,113	2,722	2,880
Textbooks and materials	7,851	7,692	7,350	7,048	6,894
Advertising and other services	2,084	2,352	2,543	2,856	2,326
Interest charges	-	-	63	87	106
<b>Total expenditure</b>	<b>79,913</b>	<b>85,543</b>	<b>89,340</b>	<b>91,585</b>	<b>88,976</b>
<b>Surplus before unfunded adjustments</b>	<b>6,106</b>	<b>1,167</b>	<b>1,321</b>	<b>2,694</b>	<b>2,200</b>
Amortization of capital contributions	665	1,326	1,563	1,685	1,472
Amortization	(4,325)	(5,001)	(4,624)	(3,937)	(3,160)
Severance pay	(350)	(951)	(1,655)	(627)	(42)
Vacation pay	(232)	(220)	(334)	(72)	272
<b>Surplus (deficit) after unfunded adjustments</b>	<b>\$ 1,864</b>	<b>\$ (3,679)</b>	<b>\$ (3,729)</b>	<b>\$ (257)</b>	<b>\$ 742</b>

Source: Audited Financial Statements

---

## Audit Objectives and Scope

---

**Objectives** We undertook this review to determine if expenditures were properly approved, monitored and controlled and whether the College complied with legislation such as the *College Act, 1996* and the *Public Tender Act and Regulations*, and Government and College policy.

---

**Scope** Our review included an analysis of expenditures and human resource practices at the College. Our work covered the period from 1 April 2003 to 31 March 2005.

---

## Conclusions

---

**Overall** There are significant concerns with expenditures and human resource practices at the College of the North Atlantic. A lack of adherence to Government policy, particularly in the human resources area, has led to questionable transactions and resulted in instances of inappropriate expenditures of public funds. Our conclusions are outlined as follows:

### 1. Compensation Practices

**Non-compliance with compensation practices**

Contrary to the requirements of the *College Act, 1996*, the College is not always complying with Government's compensation practices. For example:

#### *Unauthorized cash bonuses*

Contrary to Government's compensation practices, the College paid out \$237,000 in faculty/support coordinator cash bonuses to approximately 100 employees during 2004-05 without requesting the required Treasury Board approval.

#### *Inappropriate salary differentials*

Contrary to Government's compensation practices, the College paid salary differentials totalling \$45,000 to 4 management employees from 1997 to 2005 where there was no manager/subordinate relationship evidenced in the College's organizational structure approved by Treasury Board.



Furthermore, instead of paying a 1% cash bonus each year for a salary differential as required by Government policy, for 2 of the 4 employees and for 1 other management employee, the College incorrectly paid salary differentials by placing them on a higher step on the salary scale.

*Inappropriate salaries relating to appointments, step increases and promotions*

We found the following examples of inappropriate salaries:

- 6 managers were assigned salaries without first requesting the required classification review by Treasury Board. Furthermore, while 5 of the managers were paid on a pay scale, the other manager was arbitrarily assigned an \$80,000 annual salary.
- The former College President was appointed to step 27 and not the step 19 approved by the Lieutenant-Governor in Council. As a result, between 1999 and 2005, the former President was paid a total of \$18,947 in excess of the authorized salary.
- 1 management employee was twice provided with step increases above the approved step to effectively provide two \$3,000 bonuses.
- 2 management employees were advanced above the maximum step 25 provided by Government policy.
- 4 management employees were promoted to new positions and paid above percentages provided by Government's promotion policy.

*Unapproved and questionable overtime*

We found instances where overtime worked by 2 management employees was not pre-approved, was incorrectly calculated in one instance, and in both instances was sometimes paid for periods when they were on leave. One management employee accumulated 1,134 overtime hours (371 of which were in error) in a 7 month period in 2002 while the other management employee accumulated 549 overtime hours in a 13 month period ending in 2002, neither with the required prior documented approval.

*Inappropriate accumulation and use of leave*

We identified 7 issues relating to 5 management employees: 3 management employees accumulated a total of 45 days paid leave in excess of Government policy; 1 management employee, over a five year period, accumulated 25 days less than Government policy; 1 management employee was incorrectly credited 28 leave days they were not entitled to; and 2 management employees benefited a total of 13 days because they were allowed to use their sick leave bank without first taking the required 2 days of paid leave.

**Non-compliance with recruitment policies**

---

## 2. Recruitment Process

Contrary to the requirements of the *College Act, 1996*, the College is not complying with Government's recruitment policies. We found that required job competitions were not always conducted and managers were appointed upscale without the required documented approval of the President. In particular:

- 3 managers were transferred to higher-rated positions without conducting job competitions.
- 2 new managers were appointed beyond step 1 (i.e. upscale hiring) by the Director of Administration without the required documented prior approval of the President. One was appointed at step 23 while the other was appointed at step 25.

**Non-compliance with the Conflict of Interest Act, 1995**

---

## 3. Qatar Operations

Our review identified inappropriate retention of significant monetary gifts and compensation practices which do not comply with Government's compensation practices.

*Inappropriate retention of significant monetary gifts*

6 College employees contravened the *Conflict of Interest Act, 1995* by accepting significant monetary gifts. On 18 February 2004, 4 College employees accepted monetary gifts and on 23 July 2004, 2 of these 4 and 2 others accepted monetary gifts. Three accepted monetary gifts of \$20,000 US or more while 3 accepted lesser amounts.

2 College Board members, contrary to current Board policy and sound management practices, accepted monetary gifts of \$20,000 US.

1 member of the Joint Oversight Board in Qatar received \$20,000 US and subsequently donated the money to the College. It was as a result of this donation that the receipt of monetary gifts by others was identified. It should be noted that the College Board was never informed of either the source of the monetary gift or reason for the donation.

Other issues identified are as follows:

- Correspondence clearly shows that, although the former President of the College had accepted a monetary gift and was aware of others accepting such gifts, the President was reluctant to disclose any of the gifts. The President did not notify the Minister of Education until over a year after accepting the \$20,000 US.
- The minutes of meetings in February 2004 and July 2004 did not reference the presentation of monetary gifts.
- Although the Department of Education was aware of the matter in August 2005, letters were not issued to employees and College Board members until March 2006. Department officials indicated that the delay was due to the time required to investigate the matter and to obtain legal advice as to the appropriate action to take.

Furthermore, although the *Conflict of Interest Act, 1995* provides remedies in such instances, e.g. the employees could have been reprimanded or required to divest of the money, the College did not pursue such remedies for the 3 of 6 College employees still with the College. Department of Education officials indicated that based on legal advice, these remedies were not utilized. Instead, the College wrote the employees indicating that they may want to consider making (i.e. not required to make) a donation that would benefit students of the College. As at 23 August 2006, College officials indicated that no donations had been received.

*Non-compliance with compensation policies*

Contrary to Government policy, none of the employment contracts for the 164 positions (150 staff and 14 managers) at the Qatar campus have been either reviewed (propriety) by the Department of Justice or approved (salaries and benefits) by Treasury Board.

**Employment contracts not approved**

**Employees receiving increased benefits and pensions**

We found that employees are receiving increased benefits and pensions as follows:

- Contractual employees earn significantly more salary (all 35% higher) and are entitled to increased benefits (leave, free furnished housing, one annual trip anywhere to a maximum cost equivalent to a return trip to Newfoundland and Labrador, free school tuition for up to 2 dependents under 18, a \$15,000 living allowance and a one-time \$2,000 US relocation allowance) over and above what they would in their regular positions at the College. It is common practice for employees at the College to take advantage of these increased salaries and benefits.
- Increased salaries can also result in increased pension benefits which further burden the Province's already strapped pension fund.
- Leave benefits provided for in the employment contracts with the President of the Qatar Campus, the 13 managers in Qatar and the Project Director of Nursing located in St. John's exceed the leave benefits for other employees. In these cases, the President received 78 days leave (54 A/L and 24 (S/L) and the management employees received 69 days leave (45 A/L and 24 S/L) while similar employees at the College would receive a maximum of 35 days leave.
- The Project Director of Nursing located at a St. John's campus performing duties related to the Qatar campus received compensation benefits in excess of benefits available to other College staff in the Province. In this case, there was no employment contract on file and Treasury Board did not classify or approve this position. This person was hired without a competition and was provided with an annual salary of \$125,000 (includes a \$25,000 overseas allowance) and worked from January 2004 to June 2005 in Newfoundland and Labrador. In July 2005, this person was appointed to the position of Campus Administrator at an annual salary of \$82,000.

#### 4. Expenditures

*Expenditures  
not approved  
or monitored*

During our review, we found issues such as inadequate approvals, non-compliance with Government and College policy, and inadequate monitoring of expenditures. For example:

- Contrary to the College's professional development policy, no professional development plan was submitted to the Board for approval before the former College President received \$18,640 in reimbursements for doctorate studies at the University of Calgary. After our inquiry, in June 2005 the former Chair of the Board approved, on a retroactive basis, to June 2004, this professional development initiative.
- Contrary to Government's car allowance policy of 1 January 2005, the College continued to pay the \$85 per month car allowance to 10 staff over a four month period totalling \$3,400 in addition to an enhanced mileage rate.
- Senior employee travel was not always approved by the proper authority.
- Contrary to Government's entertainment expense policy, the College provided retirement gifts to other than executive pay plan employees.
- Contrary to Government's relocation policy, the College paid one employee \$2,484 in April 2004 for ineligible mortgage default insurance and provided another employee \$3,000 in August 2004 without any documentation.

The College awarded 4 consulting contracts totalling \$509,003 without inviting proposals. This practice is not consistent with Government's Guidelines Covering the Hiring of External Consultants which, in these instances, requires that three proposals be obtained.

---

*Public Tender Act contravened*

**5. Public Tender Act**

We selected 26 purchases greater than \$10,000 and found that the College contravened the *Public Tender Act* for 3 purchases totalling \$9,136,123 in that no public tender was called, while in 2 other instances totalling \$68,478, the Minister of Government Services (after December 2004 the Government Purchasing Agency) was not informed of the sole source exceptions and therefore the exceptions could not be tabled in the House of Assembly.

We selected 21 purchases of \$10,000 and less and found that in 2 instances totalling \$3,496, the College did not obtain three quotes or otherwise establish a fair and reasonable price for purchases.

In addition, there was neither a public tender call nor a request for the required Cabinet approval for an exemption to the lease extensions for the College's campus in Labrador West from January 2000 to August 2002.

*Capital assets are inadequately controlled*

**6. Capital Assets**

The College does not adequately record, monitor and safeguard its capital assets. Our review of a sample of assets indicated the following:

- The College's capital asset ledger was not accurate.
- Not all moveable electronic equipment such as computers and digital cameras could be located. With regards to a digital camera, although an official knew it was missing they never documented or reported it.
- Portable computers were kept at employees' homes.
- Monitoring information kept on the College's 68 vehicles was not accurate.

*Issues with the College's Labrador campus lease*

In 1989, the College entered into a lease arrangement for a school building in Labrador. Since 1989, the College has spent a total of \$5.9 million on lease payments, \$3.0 million in leasehold improvements, and in addition, since April 2001, has incurred operating costs for such things as heat, light, repairs and maintenance, and snow clearing. Our review indicated the following issues:

- Even though the *College Act, 1996* requires all leases and title to real property acquired to be in the name of the Crown, in 2001 the College negotiated a lease arrangement and made monthly payments for a 4 month period to October 2001 which were \$30,000 (a total of \$120,000) more than the monthly \$50,000 lease payment the former Department of Works, Services and Transportation indicated was appropriate.
- Since November 2001, the landlord has billed the College the additional \$30,000 per month; however, as directed by the former Department of Works, Services and Transportation as a result of ongoing lease arrangement negotiations, the College has not paid that amount.
- The College has been making lease payments since 1 January 2000 without a signed lease agreement.

As indicated in the preceding Part 5 *Public Tender Act*, there was neither a public tender for lease extensions from January 2000 to August 2002 nor did the College request the required Cabinet approval for an exemption.

---

## Findings and Recommendations

---

The findings from our review are outlined in the following six categories:

1. Compensation Practices
  2. Recruitment Process
  3. Qatar Operations
  4. Expenditures
  5. *Public Tender Act*
  6. Capital Assets
-

## College Headquarters, Stephenville



### 1. Compensation Practices

#### Description

Salaries are the largest expense at the College. During 2004-05, the College spent \$67.9 million, or 76% of its \$89.0 million in total expenditures on salaries and benefits. The *College Act, 1996* requires the College to adhere to the Province's personnel administrative procedures. Our review disclosed that the College's compensation practices did not always comply with Government policy with regard to:

- A. Payment of bonuses
- B. Payment of salary differentials
- C. Position appointments
- D. Step increases
- E. Promotion policy
- F. Overtime
- G. Leave



**Unauthorized  
cash bonuses**

**A. Payment of bonuses**

The College's policy regarding bonuses indicates that *“The Board may establish honoraria from time to time which may be attached to specific jobs within the College to reflect limited and specific responsibilities over and above those for which the employee occupying the position is in receipt of remuneration, and for which the position, itself, is classified.”* Government policy requires approval from Treasury Board for payment of any bonuses.

Contrary to Government's compensation practices, the College paid faculty/support coordinator cash bonuses totalling \$237,000 to approximately 100 employees for the year ended 31 March 2005 (2004 - \$217,000) without requesting the required Treasury Board approval.

Officials at the College acknowledged that the payment of bonuses has been a common practice for many years.

---

**B. Payment of salary differentials**

**Salary  
differential  
policy**

Government's salary differential policy states a manager should receive a 1% cash bonus above the base salary of their highest classified management subordinate. The salary differential policy is not applicable in the following situations:

- If the employee's position is not officially classified on a job evaluation plan administered by Public Service Secretariat's Classification, Organization and Management Division and the supervisor/subordinate relationship does not occur within an approved organizational structure; or
  - When the subordinate is paid based on individual qualifications or red-circled; or
  - When the subordinate is paid higher than the regular rate of pay for the position.
-

**Inappropriate salary differentials**

For 4 of 31 personnel files we reviewed, the College paid salary differentials totalling \$45,000 from 1997 to 2005 although there was no manager/subordinate relationship in place as per the organizational structure approved by Treasury Board. In these instances:

- 3 District Administrators were paid a salary differential above an Assistant District Administrator although both positions report directly to the President; and
- 1 Director was paid a salary differential above a District Administrator (who also received an incorrect differential) although there was no manager/subordinate relationship.
- Furthermore, instead of paying a 1% cash bonus each year for a salary differential as required by Government policy, for 2 of the 4 employees and for 1 other management employee, the College incorrectly paid salary differentials by placing them on a higher step on the salary scale.

---

**C. Position appointments**

**Classification policy**

Government policy requires the permanent head (College President) to notify Classification, Organization and Management Division of the Public Service Secretariat of proposed organizational or position changes which may result in position classification changes.

Treasury Board approval is required for any change in the number of permanent positions while the Classification, Organization and Management Division of the Public Service Secretariat may approve a revision in the classification of a position on behalf of the Board. Treasury Board or Classification, Organization and Management Division shall issue the authority outlining approved position classification changes.

---

**Inappropriate appointments**

In 6 instances managers were assigned salaries without first requesting the required classification review by the Public Service Secretariat. Furthermore, while 5 of the managers were paid on a pay scale, the other manager was arbitrarily assigned an \$80,000 annual salary. Details are as follows:

- **Director of Administration** - In 2000, the College eliminated the positions of Director of Finance and Director of Information Technology and combined the two into a Director of Administration position. The College appointed the former Director of Finance (Hay Points 1262 - \$78,863) to the position and paid this employee at the Hay Points 1358 - \$81,360 effective 1 October 2000. However, the College did not request and receive approval from Treasury Board for this position until July 2002. As a result, the Director of Administration was paid approximately \$4,500 without approval.
- **Student Resident Manager** - In 1995, the College created and filled the position of Student Residence Manager at the HL 10 level. The College did not request and receive approval for this position until July 2000. Furthermore Treasury Board classified the position at the HL 9 level; however, contrary to Government's compensation practices, the College placed the employee on step 29 of the HL 9 salary scale to effectively continue paying the employee at an amount equivalent to the HL 10 salary scale.
- **Director of Programs and Student Services** - In June 2004, the College created the position of Director of Programs and Student Services by combining two positions (Director of Programs and Director of Student Services). The College temporarily appointed the former Director of Student Services to this position and paid them at Hay Point level 1418 without first requesting the required classification review by Treasury Board.

Furthermore in May 2005, the previous Director of Programs returned from Qatar and resumed their previous salary although the position was eliminated when this position was combined with the Director of Student Services position.

- **Associate Director of Human Resources** - In January 2005, the College created the position of Associate Director of Human Resources and classified the position as HL 26 without requesting the required approval and classification review by Treasury Board.

- **Associate Director of Programs and Services** In June 2004, the College created the position of Associate Director of Programs and Services without requesting the required approval and classification review by Treasury Board. Furthermore, the College temporarily appointed the former Dean of Programs HL 29 step 25 to the position at HL 29 step 33. Government policy does not permit appointment and advancement beyond step 25.
  - **Director of Development and College Advancement** In July 2003, the College created and filled the position of Director of Development and College Advancement and arbitrarily assigned an \$80,000 annual salary without having the position approved and classified by Treasury Board.
- 

#### D. Step increases

##### Government policy

Government's Human Resources Policy states, "*Management employees will receive an annual increment of 3 steps on their salary ranges, up to a maximum of Step 25 with increments to be paid on the employee's anniversary date.*"

##### Incorrect step increases

Our review of 31 files identified the following:

- In August 1999, the Lieutenant-Governor in Council approved the former College President be paid at step 19. However, the College made the appointment at step 27 and not the step 19 approved by the Lieutenant-Governor in Council. As a result, between 1999 and 2005, the former President was paid a total of \$18,947 in excess of the authorized salary.
  - In June 2002, the position of Project Director of Qatar was filled (located in Clarenville). The employee was placed on step 25 rather than the approved step 20 to facilitate a \$3,000 bonus; this was approved by the President. In 2004, the employee was paid retroactively to June 2002 on step 30 to accommodate a further \$3,000 bonus; this was approved by the Director of Administration.
  - 2 management employees were advanced to step 26 (May 2000 and September 2000 respectively) i.e. above the maximum step 25 allowed under Government policy.
-

## **E. Promotion policy**

### **Promotion policy**

Government's promotion policy (April 1996) applies to employees moving into a position that carries a higher maximum salary (higher Hay Level (HL) scale).

The policy states that employees promoted within management shall be increased by the lesser of 10% adjusted to the next higher step or the same step on the new pay range. If promoted from non-management to management, the salary shall be established at the nearest point on the new pay range that exceeds the existing rate by at least 5%. In no case shall the salary exceed step 33 or fall below step 1 of the new pay scale.

### **Incorrect promotion salary increases**

In 31 files reviewed, we found that 4 management employees were promoted to a new position and paid above percentages provided by Government's promotion policy as follows:

- 2 management employees were given 10% increases although the lesser amount was the same step on the new pay scale.
- 1 management employee was given a promotion amount of 10% rather than the required 5%.
- 1 management employee was placed on a step higher than the 10% outlined in the promotion policy. In this instance, the employee should have been placed on step 15; however, they were placed on step 25.

---

## **F. Overtime**

### **Overtime policy**

Government policy requires managers be compensated with a combination of time off and pay for overtime worked in excess of 35 hours in any consecutive 8-week period where overtime is required and approved by the permanent head (i.e. College President). The maximum amount of overtime pay that a manager may receive in any fiscal year is 10% of their annual salary.

Our review of the 31 personnel files identified issues with 2 employees as follows:

- One employee was paid \$19,896 (549 hours) in 2002-03 for overtime worked from October 2001 to October 2002, which was \$13,301 more than the maximum allowed (10% of annual salary). Furthermore, there was no evidence of prior approval and 7 hours of overtime were recorded while the employee was on sick leave.
- One employee accumulated 1,134 overtime hours from June 2002 to December 2002 for which:
  - prior approval from the President was not obtained;
  - as a result of an incorrect application of Government's overtime policy, the employee was incorrectly credited with an extra 371 hours (53 days). In this instance, the employee was credited with two days for every five hours above 100 hours in an 8 week period, when they should have received credit for one day for every five hours; and
  - the employee claimed 42 hours of overtime while on paid leave status.

---

## G. Leave

### Leave policy

Government policy provides that management employees accumulate paid leave based on an employee's length of service: 25 days for up to 9 years of service; 30 days for 10 to 24 years; and 35 days for 25 or more years.

### Inappropriate accumulation and use of leave

We found 7 instances relating to 5 management employees where paid leave was calculated or paid incorrectly as follows:

- 1 employee was credited with 10 years of service as of September 2003 although, due to service gaps, 10 years of service was not reached until August 2004. As a result, this employee was credited with 5 days above Government policy.

- 1 employee was credited with 30 paid leave days per year from 1 April 2000 to 30 April 2002 although they only had 5 years of service at the time and should have been credited with 25 days per year. As a result, this employee was credited with 10 days above Government policy.
  - 1 employee was credited with 35 paid leave days annually since July 2000 even though they will not be entitled to this amount until January 2007. As a result, at the time of our review, this employee was credited with 30 days above Government policy.
  - 1 employee had accumulated 25 years of service effective June 2000 and should have been credited with 35 paid leave days per year as of that date. However, as of October 2005, they were still being credited with only 30 days per year. As a result, at the time of our review, this employee was credited with 25 days less than Government policy.
  - 1 employee, the former President of the Qatar campus, was overpaid 28 leave days after their contract expired 31 December 2004 because they continued to accrue leave at Qatar rates after their return to the Province.
  - 2 employees were not required to use 13 of their paid leave days from January 2001 to February 2004 because they were allowed to access their sick leave bank without first taking the required 2 days of paid leave.
- 

## 2. Recruitment Process

---

### Government policy

The Merit Principle, championed by the Public Service Commission (PSC), requires that candidates be assessed with fairness and equity so that jobs will be awarded to the candidates most suitable for a position. The Merit Principle is the primary means to restrain or avoid political and bureaucratic influence over appointments and internal promotions.

The *Public Service Commission Act* allows the PSC to delegate responsibility for appointments and promotions to a chief executive officer or Deputy Minister. This delegation is subject to an annual review by the PSC for compliance with its hiring practices and with the spirit and intent of the recruitment process (i.e. the Merit Principle).

As per the PSC staffing policies, a permanent employee cannot be temporarily promoted for a period exceeding 6 consecutive months without the administration of a PSC approved selection process.

We examined the following aspects of the College's recruitment process:

- A. Job competitions
  - B. Step placement
- 

#### A. Job competitions

#### No job competitions

Our review identified that the College transferred 3 managers to higher-rated positions without conducting job competitions. In particular:

- **Labour Relations Officer** - In January 2005, the College filled the position without a job competition by seconding the Manager of Human Resources (HL 22). Since the position is higher-rated, the secondment was actually a promotion and a job competition should have occurred.
  - **Chair of Information Technology** - In September 2001, the College filled the position of Chair of Information Technology (HL 29) until May 2002 without a job competition. The employee was in the position beyond 6 months and was paid a higher salary than previously (HL 28).
  - **Associate Director of Programs and Services** In June 2004, the College temporarily appointed the former Dean of Programs (HL 29) step 25 to the position of Associate Director of Programs and Services (HL 29) step 33. Government policy permits temporary appointments for a period of 6 months without a job competition; however, the employee was in this position for 1 year, from June 2004 to July 2005, without a job competition.
-



## B. Step placement

### Government policy

Government policy states that new managers will generally start at step 1 of the assigned salary range. Appointments beyond step 1 must be approved in writing by the Chief Executive Officer. For executives, appointments beyond step 1 must be approved by Treasury Board and beyond step 21 must be approved by Cabinet.

### Improper approval of upscale hiring

In our review of new appointments, we found that in 2 instances the Director of Administration (not the President, as required) approved management appointments beyond step 1. One was appointed at step 23 while the other was appointed at step 25.

---

## 3. Qatar Operations

---

### Background

Since September 2001, the College has operated a campus in the State of Qatar. As part of its 10-year comprehensive agreement with the State of Qatar, the College is reimbursed for expenditures related to operating the campus and receives an annual management fee of 10% of base salary expenditures.

### Qatar Campus



Figure 2 shows revenue and expenditure for the Qatar campus.

**Figure 2**

**Qatar Revenue and Expenditure  
Years Ending 31 March  
(\$000's)**

	2004			2005		
	Qatar	Province	Total	Qatar	Province	Total
<b>Revenue</b>						
Salary and benefit recovery	\$6,969	\$ 306	\$7,275	\$11,614	\$ 239	\$11,853
Expense recovery	1,287	335	1,622	476	479	955
Institutional fees	434	-	434	715	-	715
Contract training profit	-	-	-	28	-	28
<b>Total revenue</b>	<b>8,690</b>	<b>641</b>	<b>9,331</b>	<b>12,833</b>	<b>718</b>	<b>13,551</b>
<b>Expenditure</b>						
Salaries and benefits	6,628	470	7,098	11,222	510	11,732
Materials and supplies	463	24	487	62	15	77
Travel	327	154	481	328	222	550
Health insurance	296	-	296	-	-	-
Relocation and recruitment	167	60	227	(3)	55	52
Professional fees	23	145	168	25	259	284
Other	52	44	96	65	27	92
<b>Total expenditure</b>	<b>7,956</b>	<b>897</b>	<b>8,853</b>	<b>11,699</b>	<b>1,088</b>	<b>12,787</b>
Net profit (deficit)	\$ 734	\$(256)	\$ 478	\$ 1,134	\$(370)	\$ 764

Source: College financial reports

The largest expense for the Qatar campus is salaries and benefits. For the year ended 31 March 2005 this amounted to \$11.7 million or 91% of the total expenditures of \$12.8 million. There were about 164 employees (not including 9 employees in the Province), considered contractual College employees, at the campus at 31 March 2005. Generally, contract terms are 3 years but recently some have been extended for 2 more years.

**Our findings**

In our review of Qatar campus compensation practices, we examined:

- A. Conflict of interest
- B. Contract approvals
- C. Pension costs
- D. Employee benefits

**Legislation and policy**

Section 7 of the *Conflict of Interest Act, 1995* states that “A public office holder shall not, directly or indirectly, accept a fee, gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly, with the performance of his or her duties.”

A public office holder is defined as a person who receives a salary or other remuneration from money voted by the legislature and includes a person employed by an agent of the Crown.

Furthermore, the College's policy 3.6, adopted 1 January 2005, on conflict of interest for Board members states that “a board member shall not, directly or indirectly, accept a fee, gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly, with the performance of his or her duties.”

**Gifts**

Further to discussions with College officials and as outlined in correspondence at the Department of Education, there were issues identified with gifts accepted by College employees and members of the Joint Oversight Board (responsible for the Qatar campus). These gifts were presented by the Chair of the Joint Oversight Board, a representative of the State of Qatar. Details are as follows:

- 6 College employees contravened the *Conflict of Interest Act, 1995* by accepting and keeping significant monetary gifts.
- 2 members of the Joint Oversight Board, who are also on the College's Board of Directors, contravened current Board policy and sound management practices by accepting and keeping significant monetary gifts.
- 1 member of the Joint Oversight Board accepted and donated their \$20,000 US gift to the College. It was as a result of this donation that the *Conflict of Interest Act, 1995* violations were first identified by a College official.

The monetary gifts were provided on two occasions - 18 February 2004 and 23 July 2004. While correspondence indicated that there was a significant certainty about the amounts provided on 23 July 2004, the amounts provided on 18 February 2004 were not as certain. Correspondence indicates the monetary gifts were presented as follows:

Position	18 February 2004	23 July 2004
College President		\$20,000 US
College Presidents Secretary <sup>1</sup>		\$10,000 US
College Board Chair		\$20,000 US
College Board Member		\$20,000 US
Oversight Board Member		\$20,000 US
CNA Qatar President	> \$5,500 CAN	\$20,000 US
CNA Qatar Vice-President (Academic) <sup>1</sup>	\$5,500 CAN	\$20,000 US
CNA Qatar Vice-President Engineering Technology)	\$5,500 CAN	
CNA Qatar Manager of IT <sup>1</sup>	\$3,667 CAN	

<sup>1</sup> Still employed by the College

Furthermore, we identified the following issues with regard to this situation:

- Contrary to the requirements of the *Conflict of Interest Act, 1995*, neither the former College President nor employees disclosed in writing, as required by the *Act*, any particulars of the monetary gifts that they accepted. Although Department of Education officials indicated that some of the individuals receiving gifts verbally reported the acceptance of the gifts to the President, in this case, the *Act* requires that all employees write the President outlining full particulars of the monetary gifts, while the College President is obligated to disclose such gifts to the Department of Education.
- Although the President had accepted a monetary gift and was aware of others accepting such gifts, the President was reluctant to disclose any of the gifts. The matter was first discussed with the President by a College official in October 2004; however, it was not until August 2005 that the President eventually made a written disclosure to the Minister of Education, over a year after accepting the money in July 2004.

- Although the Minister of Education was officially made aware of the matter by the President in August 2005, letters were not issued to the employees and College Board members in receipt of the monetary gifts until March 2006. Department officials indicated that the delay was due to the time required to investigate the matter and to obtain legal advice as to the appropriate action to take.
  - It was evident from correspondence on file at the Department of Education that officials had difficulty in obtaining information from the CNA Qatar Vice-President (Academic) in particular on the exact amount of monetary gifts accepted.
  - Although the first monetary gifts were accepted on 18 February 2004, the Joint Oversight Board minutes for the meeting of 18/19 February 2004 did not record this event. Furthermore, there was no reference in the official minutes of the 23 July 2004 meeting to indicate the presentation of monetary gifts by the representative of the State of Qatar.
  - The College Board minutes for 24 February 2004 under “President's Report” record the \$20,000 US donation from the Joint Oversight Board member simply as a donation to the College. There was no indication that the Board was ever informed of either the source of the monetary gift or reason for the donation.
  - Although the *Conflict of Interest Act, 1995* provides remedies in such instances, e.g. the employees could have been reprimanded or required to divest of the money, the College did not pursue such remedies for the 3 of 6 College employees still with the College. Department of Education officials indicated that based on legal advice, these remedies were not utilized. Instead, the College wrote the employees indicating that they may want to consider making (i.e. not required to make) a donation that would benefit students of the College. As at 23 August 2006, College officials indicated that no donations had been received.
-

## B. Contract approvals

### Contracts not approved

Government's personnel administration policies indicate that contracts are to be reviewed by the Department of Justice and the salaries are to be approved by Treasury Board.

None of the contracts for the 164 positions (14 management and 150 non-management) at the Qatar campus have been either reviewed (propriety) by the Department of Justice or approved (salaries and benefits) by Treasury Board. In addition, 9 staff positions - located in the Province but related to the Qatar agreement - have not been approved by Treasury Board.

---

## C. Pension costs

### No assessment of pension costs

College financial information as outlined in Figure 2 indicate that the College is earning a significant profit from its Qatar operations; however, the presentation does not show the effect of the higher salaries on the Public Service Pension Plan.

The Qatar campus contractual employees earn significantly more salary (all 35% higher) and are entitled to increased benefits (leave, free furnished housing, one annual trip anywhere to a maximum cost equivalent to a return trip to Newfoundland and Labrador, free school tuition for up to 2 dependents under 18, a \$15,000 living allowance and a one-time \$2,000 US relocation allowance) over and above what they would in their regular positions at the College. It is common practice for employees at the College to take advantage of these increased salaries and benefits. Increased salaries will also result in increased pension benefits which further burden the Province's already strapped pension fund.

---

## D. Employee benefits

### Leave benefits exceed Government policy

Government's paid leave policy states the maximum number of paid leave days per year is 35 (with no eligibility to accrue sick days) if a management employee has more than 25 years of service. Our review of leave benefits for employees related to Qatar operations indicated these policies are inconsistent with Government's paid leave policy. For example:

- The College has 13 managers working in Qatar who receive 45 annual leave days and 24 sick days per year.

- The President of the Qatar campus receives 54 annual leave days and 24 sick days per year.
- The Project Director of Nursing, located in the Province, was given 45 annual leave days and 24 sick days. Furthermore, there was no contract on file and Treasury Board did not classify or approve this position. This person received an annual salary of \$125,000 (includes a \$25,000 overseas allowance) and worked from January 2004 to June 2005 in Newfoundland and Labrador. In July 2005, this person was appointed to the position of Campus Administrator in St. John's at an annual salary of \$82,000.

---

## 4. Expenditures

---

### Description

For the year ended 31 March 2005, the College spent about \$21 million to purchase goods and services. For the period 1 April 2003 to 31 March 2005, we reviewed the following expenses:

- A. Professional development
- B. Travel
- C. Employee recognition and benefits
- D. Relocation
- E. External consultants
- F. Cellular telephones

### Professional development plan expenses not adequately documented

---

#### A. Professional development

College policy requires employees to submit professional development plans for their immediate supervisor's review and recommendation before expenses can be incurred.

In our review of professional development claims, we identified that from July 2004 to July 2005, the College spent \$18,640 in professional development expenses for the former President to obtain a doctorate degree at the University of Calgary. Expenses included \$10,988 in tuition fees, \$7,329 in travel costs, and \$323 in educational materials. We could not find an approved plan to support this expense, nor was there any documentation in the Board minutes approving this professional development. As a result of our inquiry, we were provided with a letter dated 30 June 2005 in which the former Chairperson approved the former President's professional development retroactive to June 2004.

## B. Travel

### Our findings

During the 2004-05 fiscal year, the College spent approximately \$1.0 million (2003-04 - \$1.5 million) on travel. In our review of travel expenses, we examined 6 travel files from April to September 2005, 22 travel files for the year ended 31 March 2005 and 19 travel files for the year ended 31 March 2004 and found issues related to:

- Improper car allowances;
- Non-compliance with Government and College policies; and
- Lack of monitoring of advances and travel.

### Car allowances incorrectly paid

#### *Personal vehicle use and car allowances*

Government policy allows employees required to provide a personal vehicle as a condition of their employment to claim an enhanced mileage rate (car allowance of \$85 per month prior to 1 January 2005). Furthermore, Government's policy indicates that if the \$85 per month is required in accordance with a collective agreement, only a basic mileage rate can be paid. We found:

- 1 employee received an annual car allowance even though the majority of their travel was conducted using a College-owned vehicle.
- Effective 1 January 2005 car allowances of \$85 per month were discontinued in favour of a higher mileage rate. However, the College incorrectly paid car allowances totalling \$3,400 to 10 staff from January to April 2005 in addition to the enhanced mileage rate.

### Non-compliant travel approvals

#### *Compliance with policy*

College policy requires travel be approved by an employee's supervisor. We identified some travel that was approved by a subordinate. For example:

- The President submitted 48 travel claims from April 2003 to September 2005, including 26 out-of province trips. All were approved by the President's subordinate. In our opinion, the College Board (Chair) should have approved the travel.



- The Director of Administration (reporting to the President) submitted 16 travel claims from April 2003 to September 2005, including 3 out-of-province trips. Only 3 were approved by the President and 2 were approved through documented delegation.
- 

**Travel  
spending not  
adequately  
monitored**

*Monitoring of advances and travel*

Travel advances and amounts to be recovered from third parties are not being adequately controlled. For example:

- In 2003 an employee represented the College at 2 conferences. The employee indicated on the travel claims that the amounts, totalling \$1,939, were recoverable from the Association of Canadian Community Colleges; however, the Association was never invoiced.
  - In one instance a travel advance of \$4,500 was issued in March 2005 but not recorded as an accounts receivable at year end.
  - In one instance an advance related to the purchase of an unused airline ticket was recorded as an accounts receivable although the time frame for using the ticket expired two months previously.
  - An advance to pay tuition fees in August 2004 was still outstanding at 31 March 2005 although the course had been completed. No receipt had been received to support the advance as of September 2005.
- 

**Employee  
benefits not  
consistent with  
Government  
policy**

**C. Employee recognition and benefits**

The College has a policy of providing gifts to retiring staff, based on a minimum of five years of service, that range from \$100 to \$200. This policy is not consistent with Government policy, which states retirement-related expenses can only be provided for employees paid on the executive pay plan.

In addition, College staff are provided access to College courses at free tuition provided there are a sufficient number of paying students to cover all course costs and all paying students have been accommodated.

---

**Relocation payments not consistent with Government policy**

**D. Relocation**

Government's relocation policy permits reimbursing reasonable relocation expenses for new and existing employees who enter a two-year relocation agreement. We identified the following:

- In April 2004, the College reimbursed 1 employee \$2,649 (\$2,484 for a mortgage default insurance premium and \$165 for a mortgage insurance fee). Government's policy only allows for reimbursing a mortgage insurance fee. As such, the employee was overpaid \$2,484.
- In August 2004, the College advanced \$3,000 to 1 employee for relocation. As of September 2005, the employee had not submitted a relocation claim or documentation to offset the advance. Government's policy requires all claims be submitted within 30 days of moving.

**No policy for selecting external consultant**

**E. External consultants**

The College does not have a policy or other objective means for selecting external consultants. An example of such a policy is Government's *Guidelines Covering the Hiring of External Consultants* which outlines requirements for expenditure approvals, proposals, and selection approvals. Specifically, the guidelines require:

- At least 3 proposals be obtained for the hiring of external consultants when contracts exceed \$50,000.
- Contract payments made in excess of 110% of a contract price be approved by Treasury Board (Department of Finance).
- Contracts in excess of \$100,000 be approved by Cabinet and contracts paid on a per diem basis that are in excess of 1 year be approved by Treasury Board.

We examined 7 consulting contracts over \$50,000 from April 2003 to March 2005 where the College was required, consistent with Government's guidelines, to request proposals. Our review disclosed the following issues:

- Proposals were not called;
- Contract extensions were not properly approved; and
- Contracts were not properly approved.

*Proposals and extensions*

**Public proposals not called as required**

The College did not request proposals for 4 of the 7 consultants hired, and in 3 of these 4 instances, Treasury Board approval was not obtained for contract extensions. In particular:

- In January 2002, the College entered into an agreement with a consulting firm to provide tax consulting services (at a cost \$27,500) for its Qatar operations. We found that up to March 2005, the College paid a total of \$172,590, excluding taxes, or 528% above the contract price, to the firm. In this case, there was no proposal call. Furthermore, the extent of the work changed considerably again without any regard to seeking proposals. According to Government's guidelines, the College would have been required to obtain at least 3 proposals, and request Treasury Board approval for contract extensions.
- In May 2002 and November 2003, the College hired 2 nursing consultants on a fee-for-service basis to help develop a nursing program in Qatar. Up to August 2004, the College paid a total of \$146,993, including travel costs. According to Government's guidelines, the College would have been required to obtain at least 3 proposals for the work.
- In October 2003, the College entered into an agreement with a consulting firm for the period 8 March 2004 to 31 August 2004 to perform various organizational and developmental assignments. We found that a former district administrator of the College, who retired in February 2004, was the firm's sole owner. The contract was for \$39,000 (\$6,500 per month). In March 2005, the President extended the contract retroactively from September 2004 to June 2005 at a monthly rate of \$8,500 per month. The College paid the consulting firm a total of \$120,550 (including \$2,925 in overtime during the April 2004 Public Service strike), which was 209% above the contract price, from March 2004 to June 2005. According to guidelines, the College should have called for proposals and received Treasury Board approval for the extensions.

- In April 2004, the College entered into an agreement with a consulting firm for the period 1 March 2004 to 30 January 2005 to produce a 5-year strategic plan for its Qatar operations. The contract was valued at \$35,000, exclusive of travel and taxes (or \$875 per day if terminated at no fault of the consultant). We found that the consultant was paid the \$875 per diem rate at the onset of the contract, for a total of \$68,870 for 551 hours (78.7 days), which is 97% above the contract price, up to 28 February 2005, exclusive of taxes and travel. According to Government guidelines, the College should have obtained at least 3 proposals and received Treasury Board approval for the extensions.

**Contract approvals not consistent with guidelines**

---

*Contract approvals*

The College did not obtain proper approval for 2 of the 3 consulting contracts where proposals were requested, as follows:

- In January 2003, the College entered into a contract with a consulting firm at a cost of \$143,950 plus travel and taxes to evaluate proposals for the College's new management information system. The College conducted a public call for proposals for this contract; however, the agreement was not approved by Cabinet. Our review also showed the consulting firm's proposal was only for \$104,750.
- The College contracted a consulting firm for the period 1 March 2004 to 1 April 2010 for the “*procurement, implementation and ongoing support*” for its new management information system at a cost of \$9.1 million without approval of Cabinet. Notwithstanding this issue, in our view these goods and services should have been publicly tendered and our comments are detailed in Part 5 of this Report *Public Tender Act*.

**Cellular telephones not adequately monitored**

---

**F. Cellular telephones**

During 2004-05, the College spent \$107,700 on cellular telephones, an increase of \$10,500, or 11%, from 2003-04. At March 2005, the College had 104 cellular telephones. According to College policy, the Director of Administration must monitor cellular telephones and ensure prudent cellular telephone expenditures. In our opinion, current monitoring is not adequate. Examples include:

- 14 of the College's 104 cellular telephones were used for less than 10 minutes per month, with 8 not used at all. Our analysis revealed that it was possible to realize annual savings if more appropriate packages were selected for staff. We note that this is further supported by an analysis performed by Aliant for the College which indicated possible annual savings of \$20,000 regarding cellular telephone packages.
- College policy permits cellular phones to be assigned to managers based on a demonstrated need and to non-managers on a temporary basis. However, we found 4 instances where non-managers were assigned permanent cellular phones.
- Charges related to personal cellular phone use were not always recovered from the employee. The College determines the amount recoverable based on calls to home phone numbers; however, personal calls made to other numbers or incoming calls are not considered and employees are not required to keep a log of calls.

## 5. Public Tender Act

### Description

Whenever the College acquires goods and services, it must comply with the requirements of the *Public Tender Act* and the *Public Tender Regulations 1998*. This table summarizes the requirements of the *Public Tender Act*.

When goods and services cost &	Or a public work costs &	Then the College must &
More than \$10,000	More than \$20,000	Invite tenders
\$10,000 and less	\$20,000 and less	<ul style="list-style-type: none"> <li>• Obtain quotations from at least three legitimate suppliers, or</li> <li>• Establish for the circumstances a fair and reasonable price.</li> </ul>

The *Act* provides exceptions where tenders may not be required. In such cases, the College must inform the CEO of the Government Purchasing Agency who must submit a report to the House of Assembly.

**No tendering for goods and services over \$10,000**

*Goods and services over \$10,000*

We reviewed a sample of 26 purchases greater than \$10,000 for the period 1 April 2003 to 31 March 2005 to assess the College's compliance with the *Public Tender Act* and *Regulations*. For the 26 purchases over \$10,000:

- 3 purchases totalling \$9,136,123 were not tendered as required by the *Act*;
- 2 purchases totaling \$68,478 were deemed sole source; however, contrary to the *Act* the Government Purchasing Agency and therefore the House of Assembly was not informed; and
- 21 purchases were made in compliance with the *Act*.

**Non-compliance with the *Public Tender Act***

Invoice Date	Amount (net of HST)	Description
August 2003	\$ 17,800	Ground transportation costs of moving a used jet from St. Johns to Gander.
March 2004	9,105,873	Procurement, implementation and ongoing support of a new computerized management information system.
October 2004	12,450	Household moving costs.
<b>Sub-total</b>	<b>9,136,123</b>	
October 2004	25,000	Postage deemed by College to be a sole supplier purchase.
February 2005	43,478	Postage deemed by College to be a sole supplier purchase.
<b>Sub-total</b>	<b>68,478</b>	
<b>Total</b>	<b>\$9,204,601</b>	

**No public tender called for \$9.1 million expenditure**

Details regarding the College's contravention of the *Public Tender Act* for the \$9.1 million contract for the “*procurement, implementation and ongoing support*” of a new computerized management information system are as follows:

College officials indicated that, based on the opinion of their in-house lawyer, no public tender was required. The opinion was based on an interpretation of section 2(g) of the *Act* which provides that “*services*” for purposes of public tenders do not include legal, engineering, architectural, accounting or other services that require the giving of an opinion, creativity, the preparation of a design, or technical expertise. Under the College's interpretation, the work was technical and creative in nature and

as such would not constitute “*services*” under the *Act*. Based on this interpretation, the College did not call for public tenders. Instead, a public request for proposals was issued.

However, our review indicated that the contract was more of the acquisition of goods and services as contemplated under the *Public Tender Act* versus the acquisition of creativity as contemplated under Consultant Guidelines. We found:

- The wording in the contract indicated that it was for the “*procurement, implementation and ongoing support*” of a new management information system. There was no reference to any creativity required. In fact, a standard software package was purchased and only had to be modified for use at the College. Of the estimated project cost of \$9.1 million over a six year period, approximately \$1.7 million was for software licensing, \$0.4 million was for hardware costs, \$6.1 million was for set-up, implementation and ongoing support, and \$0.9 million was for training, travel, annual maintenance costs and other incidental charges.
- Because the College considered the contract to be under the Consultant Guidelines, the College considered factors other than cost in evaluating the proposals received. If the College had awarded the contract in accordance with the *Public Tender Act* based strictly on cost, the contract may have been awarded to a different bidder at a lower cost.

---

**Lease extension  
not approved**

In September 1989, the former Department of Works, Services and Transportation and the Roman Catholic School Board entered into a lease arrangement for approximately 25,500 square feet of space in Labrador City. The purpose for the leased space was to offer first year university courses in Labrador West through the Labrador College. This space was, as approved by Treasury Board, not tendered at the time due to time constraints.

In 1994, Cabinet had approved a lease extension to 31 December 1999; however, from January 2000 to August 2002, the College continued to lease the space without a public tender or Cabinet approval for an exemption as required under section 4(2) of the *Public Tender Act*.

---

**Issues with goods and services under \$10,000**

*Goods and services \$10,000 and less*

Our review included a sample of 21 purchases that were \$10,000 and less for the period 1 April 2003 to 31 March 2005. We found:

- 2 purchases totalling \$3,496 did not have the required 3 quotes or documentation that a fair and reasonable price was obtained;
- 4 purchases were deemed to be sole supplier purchases; however, documentation was not attached as required by College policy;
- 10 purchases were tendered; and
- 5 purchases had quotes requested.

**Other weaknesses**

We also found the following weaknesses with the tendering process:

Weakness	Consequence
Tenders are not kept in a locked box until opened.	Integrity and security of tender bids may be compromised.
Explanations for not obtaining quotations are not always documented.	Ability to explain why three quotes not obtained compromised.
Tenders for supplying food to cafeterias are for a 2-year contract period; however, the contractor is required to maintain price for 90 days only.	Ability to obtain best price compromised during contract period.

**6. Capital Assets**

**Description**

At 31 March 2005, the College reported capital assets costing \$53.0 million with a net book value of \$8.4 million. The College maintains a capital asset ledger and has policies and procedures regarding acquiring, recording, monitoring and reporting of capital assets inventory. We found issues with:

- A. Capital asset ledger
- B. Controls over electronic equipment
- C. Controls over vehicles
- D. Lease costs



**Ledger not accurate**

**A. Capital asset ledger**

Our review of the capital asset ledger indicated not all assets are properly recorded. For example, 88 assets totalling \$108,000 (computers, refrigerators and lab equipment) were recorded as being at the Topsail Road campus; however, the College closed and demolished the Topsail Road campus in March 2002. There was no record of what happened to these assets although the College has scanned its entire inventory of capital assets twice since then and none of the Topsail Road campus assets were identified.

---

**Moveable electronic equipment not adequately controlled**

**B. Controls over electronic equipment**

We reviewed a sample of 20 moveable pieces of electronic equipment at the College's headquarters in order to assess if recorded moveable assets were at their assigned location. Our findings related to these 20 assets revealed the following:

- 7 laptop computers were not at the Office: 4 were noted as being at employees' homes or off site; 2 could not be located; 1 was with an employee on college business;
- 4 assets were found at a different location and a transfer form had not been completed to approve the transfer;
- 1 computer listed in the capital asset ledger was returned to the supplier for repairs and had been replaced by another computer; however, the replacement computer was not tagged; and
- the remaining 8 assets were found at their designated location.

Also, during our identification of electronic equipment, one employee indicated a digital camera (not one of the sample) assigned to them went missing from their office while they were away on College business. The employee did not report the missing camera as per College policy and no transfer form was completed to indicate if another employee borrowed the camera.

---

**Discrepancies  
in College  
vehicle  
monitoring and  
reporting**

**C. Controls over vehicles**

At 31 March 2005, the College reported having 79 vehicles including 11 utility trailers at a cost of \$3.3 million. In reviewing vehicle monitoring and reporting processes, we found:

- The College has not documented its policies and procedures to monitor and report on vehicle usage and costs.
- The College prepares a quarterly monitoring report that records vehicle expenses and mileage. Our review of a report that covered 5 reporting periods from 1 January 2004 to 31 March 2005 identified the following:
  - The report had a number of recording errors. For example, 1 truck was recorded as having travelled 50,500km during a 3-month period when it actually travelled 80km. Another truck was recorded as having travelled 99,600km during a 3-month period when it actual travelled 560km. One truck was recorded as having travelled only 1 km during 2004-05 but \$2,640 in fuel was charged to the truck. One van was recorded as having received \$6,900 in repairs during 2004-05 when only \$320 in repairs was actually charged. Without accurate data the College cannot adequately monitor vehicle usage.
  - The report does not include information such as budget costs, estimated costs per km and explanations for variances.

**Labrador West  
campus lease  
payments  
poorly  
managed**

**D. Lease costs**

In September 1989, the former Department of Works, Services and Transportation and the Roman Catholic School Board entered into a lease arrangement for approximately 25,500 square feet of space in Labrador City. The purpose for the leased space was to offer first year university courses in Labrador West through the Labrador College. This space was, as approved by Treasury Board, not tendered at the time due to time constraints.

The building in the Labrador West lease was assigned to Labrador College in 1994 and extended, with Cabinet approval, for another 5-year period starting 1 January 1995. In 1999, additional space was leased and leasehold improvements were made by the Labrador College's successor, the College of the North Atlantic, to establish a Mining Technology Centre as proposed by Government. The College is still leasing this space and, as of October 2005, has paid about \$6 million to lease the building and about \$3.0 million for leasehold improvements. In addition, since April 2001, the College has incurred operating costs such as heat, light, repairs and maintenance, and snow clearing relating to the Labrador West campus.

**Labrador West campus lease payments and improvements**

Period	Lease	Improvements	Total
1 Jan. 1990-31 Dec. 1994	\$1,371,155	\$2,984,000	\$4,355,155
1 Jan. 1995-31 Dec. 1999	1,337,700		1,337,700
1 Jan. 2000-31 Mar. 2001	498,082		498,082
1 Apr. 2001-31 Oct. 2005	2,690,000		2,690,000
<b>Total</b>	<b>\$5,896,937</b>	<b>\$2,984,000</b>	<b>\$8,880,937</b>

Our review of the lease arrangement identified the following issues:

- Even though the *College Act, 1996* requires all leases and title to real property acquired to be in the name of the Crown, in April 2001 the College negotiated a lease arrangement and made payments for a 4 month period to October 2001 for \$30,000 (a total of \$120,000) more than the monthly \$50,000 lease payment the former Department of Works, Services and Transportation indicated was appropriate.
- Since November 2001, the landlord has billed the College the additional \$30,000 per month and interest totalling \$217,000 to December 2004; however, as directed by the former Department of Works, Services and Transportation as a result of ongoing lease arrangement negotiations, the College has not paid that amount.

- In August 2002, Cabinet approved continued use of the space and directed the College and the former Department of Works, Services and Transportation and the Department of Youth Services and Post Secondary Education to negotiate a purchase or lease. However, as of October 2005, this issue is still outstanding.
  - The College has been making lease payments since 1 January 2000 without a signed lease agreement.
  - Although Cabinet had approved a lease extension to 31 December 1999, from January 2000 to August 2002, the College continued to lease the space without a public tender or Cabinet approval for an exemption as required under section 4(2) of the *Public Tender Act*.
- 

## Recommendations

---

### *The College should:*

- *Comply with Government compensation policies regarding payment of bonuses, salary differentials, appointments, step increases, promotions, overtime pay and leave;*
- *Comply with Government's recruitment policies for creating positions, position classifications, job competitions and step placements;*
- *Ensure employment contracts have the prior approval of Treasury Board and the Department of Justice;*
- *Properly monitor expenditures and comply with Government policy;*
- *Establish an objective approach for the selection of all consultant services;*
- *Comply with the Public Tender Act and Regulations; and*
- *Adequately record, monitor and safeguard capital assets.*

---

## College's Response

---

### ***1. Compensation Practices***

*The College acknowledges that there were weaknesses in its Human Resource practices during the period audited. Since that time considerable effort has been made to deal with these weaknesses and, in conjunction with the Public Service Secretariat and the Department of Education, develop policies consistent with Government. An external human resource consultant has been engaged to review practices, advise on policy, and make recommendations to management. Grant Thornton has been contracted to conduct a forensic audit which will review issues relating to policy and legislative compliance.*

#### ***A. Payment of bonuses***

*The practice of paying bonuses to Instructional Coordinators has been in place throughout the provincial college system since the 1980's with the knowledge and support of the Department of Education.*

*The creation of Instructional Coordinator faculty positions and the elimination of the Supervisors of Instruction management positions created substantial salary savings within the College. This bonus is essential to the successful recruitment of faculty into the Instructional Coordinator positions as it compensates them for the additional responsibilities associated with the performance of these key leadership roles.*

*The College Act, 1996 provides the Minister of Education with authority to set personnel policies necessary for the efficient operation of the College. The College has sought appropriate formal authority for this practice from the Minister of Education.*

#### ***B. Payment of salary differentials***

*During the period audited the College interpreted the policy on paying salary differentials and applied it consistently throughout the organization. In each case salaries were adjusted to ensure administrators were paid at least 1% more than their subordinates.*

*The College no longer has District Administrator or Associate District Administrator positions. The 1% differential model utilized when the College was organized on a District basis was discontinued in 2004.*

**C. Position appointments**

*The College acknowledges the Auditor General's findings and will request classification reviews from the Public Service Secretariat as required in future.*

**D. Step increases**

*The College acknowledges the appointments of the former President, Project Director of Qatar, and two management employees at the higher steps were in conflict with Government policy. The College will ensure employees are placed on the appropriate step in future. The individual files have been reviewed extensively. In consultation with legal counsel, it has been determined that binding employment contracts were in place for the former President and Project Director of Qatar. In the other two cases, the management employees are still within the appropriate pay scale and there is a letter of appointment on file in one case confirming the employee at step 26.*

*On a go-forward basis, the College will ensure that all step progressions are in accordance with Government policy.*

**E. Promotion policy**

- *At the time the first management employee was hired as a District Administrator, the salary was HL29, Step 29. According to the policy for management promotion the individual was to receive an increase of 10% of the former salary or move to the same step on the next HL level (in this case HL30, Step 29), whichever was lower. However, the HL30, Step 29 salary was actually lower than two of the incumbent's subordinates. In order to correct the salary anomaly the 1% policy was applied.*
- *The second management employee negotiated the salary prior to accepting the Campus Administrator position. This position was deemed hard-to-fill as there had been multiple unsuccessful public competitions. Further, it should be noted that the appointment as Campus Administrator allowed the College to eliminate the individual's former position as Manager of Aviation Services resulting in considerable salary savings to the College. The employee possesses industry-specific qualifications required by*

*Transport Canada. His presence is required in order for the College to continue to offer various aviation-specific programs. If he had not accepted the Campus Administrator position, the College would have had to continue to employ him as the Manager of Aviation Services and still find another individual to assume the Campus Administrator position at approximately the same salary currently being paid to the employee.*

*In both cases, the salary placements were necessary and implemented in order to avoid conflict with and pursuant to the 1% salary differential policy. The College acknowledges that its interpretation of the policy at that time differed from Government's interpretation and will follow Government's procedure in the future.*

- *The College acknowledges that the employee should have received a 5% rather than 10% increase upon promotion and will follow the proper policy in the future.*
- *The College acknowledges that the employee's placement exceeded the 10% outlined in the promotion policy and will follow the proper procedure in the future.*

#### ***F. Overtime***

*The two employees noted were working closely with and under the direct supervision of the former President on the Qatar project. The former President was aware of, requested, and approved all overtime. Time off was not practical due to operational requirements. The overtime was in direct response to the unusual demands associated with the start-up phase of the Qatar Comprehensive Agreement. The overtime credited during paid leave was earned as the employee was recalled to work while on paid leave status. The College acknowledges that it should have requested approval from Treasury Board to exceed the 10% rule. The Division of Internal Audit is conducting a thorough analysis to verify the calculation and examining the issue as to whether the amount is in line with Government's over-time policy. This is also being examined as part of the forensic audit ordered by the College, and being performed by Grant Thornton, to review issues relating to policy and legislative compliance. Where there is appropriate documentation, over-time will be paid. However, in cases where appropriate documentation does not exist, corrective action will be taken.*

## **G. Leave**

- *The College will reduce the employee's leave bank to account for the days credited in error.*
- *This anomaly was created when the new paid leave plan was implemented in 2000. At that time, the employee was correctly in receipt of 30 days annual leave under the existing College policy which was different from Government's policy. The individual was intentionally grand-parented to support pre-existing terms of employment.*
- *The College will adjust the employee's leave bank.*
- *This employee has now received credit for the earned benefit.*
- *This employee is no longer with the College and the issue of outstanding leave is being addressed.*
- *The College has reviewed the sick leave balances of these employees and made adjustments as required.*

*In response to the observations of the Auditor General, the College has undertaken a review of all employee service and paid leave calculations, and is making necessary adjustments in accordance with Government policy.*

## **2. Recruitment Process**

### **A. Job competitions**

*The majority of incidents cited were related to College restructuring where employees were either redeployed in positions similar to those they held in the past or temporarily assigned to management positions.*

- **Labour Relations Officer** *The incumbent Labour Relations Officer was temporarily assigned to the position of Associate Director of Human Resources as described above. The Labour Relations Officer position was also filled by temporary assignment, and not through secondment, for a six month period. The accepted practice would have been to renew the six month assignment for a second term not to exceed one year in aggregate. The College acknowledges that it failed to seek the six month further extension and the individual actually remained in the position for approximately 18 months due to the situation*



*described above in the section pertaining to the Associate Director of Human Resources. The College will seek all appropriate approval from the Public Service Commission respecting temporary assignments in the future.*

- ***Chair of Information Technology*** - *The College temporarily assigned an individual to the position of Chair of Information Technology for a six month period. The accepted practice was to renew the six month assignment for a second term not to exceed one year in aggregate. The College acknowledges that it failed to seek the six month further extension and the individual actually remained in the position for approximately 8 months. The College will seek all appropriate approval from the Public Service Commission respecting temporary assignments in the future.*
- ***Associate Director of Programs and Services*** - *The College consulted the Public Service Commission on the temporary assignment of the Associate Director of Programs and Services for a six month period. The accepted practice was to renew the six month assignment for a second term not to exceed one year in aggregate. The College acknowledges that it failed to seek the six month further extension and the individual actually remained in the position for approximately one year. The former President determined that the individual would be placed at step 33 of the salary scale and the College acknowledges that this was not in accordance with Government policy. The College will seek all appropriate approval from the Public Service Commission respecting temporary assignments, and will follow Government procedures pertaining to upscale hires, in the future.*

### ***B. Step placement***

*Under Treasury Board policy, the President of the College has authority to appoint management staff up to step 25 of respective salary scales. The College acknowledges that there was no formal delegation of the President's authority to the Director of Administration in these two instances.*

### 3. *Qatar Operations*

#### A. *Conflict of interest*

*The Minister of Education was taking corrective action to address this issue prior to the Auditor General's findings. This information was provided by the Department of Education to the Auditor General for information purposes.*

- *A conflict of interest did occur when individuals accepted monetary gifts and in the first instance the situation was not properly handled. However, once the Minister of Education became aware of the situation, the Department of Education took appropriate action taking into consideration legal advice provided by the Department of Justice.*
- *The donation made to the College by the Joint Oversight Board member on February 24, 2004 did not identify the source of the money or the existence of a conflict of interest. Except for those in receipt of monetary gifts, no one in the Executive or Senior Management of the College were aware of the existence of the gifts and the resulting conflict of interest.*
- *This issue came to the attention of the Minister of Education in August 2005 at which time an investigation commenced and appropriate College employees were contacted.*
- *The minutes of the February 2004 Joint Oversight Board meeting would not be expected to record the presentation of monetary gifts as these gifts were not given at that meeting. They were given at a private dinner reception.*

*Since this issue came to the attention of the College, several presentations have been given to staff in Newfoundland and Labrador and in Qatar. Employees are now keenly aware of their disclosure obligations under the Conflict of Interest Act and under the College's internal Conflict of Interest policy. College employees are now required to sign a copy of the Conflict of Interest policy indicating that they have received, read and understood same.*

**B. Contract approvals**

*The College has since received appropriate approval from the Minister of Education with respect to the compensation and benefits package for employees working on the Qatar project as per the College Act, 1996.*

**C. Pension costs**

*The College will work with the Pensions Division of the Department of Finance to address issues relating to this observation.*

**D. Employee benefits**

*These are contractual employees who are paid salaries and benefits consistent with other employees working in the Gulf region. The Government paid leave policy is not applicable to these employees. Benefits are earned and used while working on the project and are not retained by employees once they return to jobs in the province. The Minister of Education has since approved these benefits as per the College Act, 1996.*

*The Director of Nursing position (no longer in existence) was a contractual appointment, with compensation and benefits set and paid for by the client, the State of Qatar. There is no contractual obligation that any employee reside in Qatar to receive the cited premium.*

**4. Expenditures**

**A. Professional development**

*The College acknowledges the Auditor General's findings with respect to this issue. In future, College policy will be followed.*

**B. Travel**

*Car allowances:*

*The College has taken appropriate action to bring the allocation of car allowances paid to these employees in line with Government policy.*

*Travel approval:*

- *The practice of delegating authority to sign travel claims to subordinate senior executive in cases where there is a President/CEO reporting to a Board is accepted practice within government and industry. The former President's travel claims are available for scrutiny by the Chair and the Board of Governors.*
- *Pursuant to powers under section 7(3) of the College Act, 1996, the former President routinely delegated signing authority to a member of the Executive. A review of our files indicates that the former President had delegated signing authority to a member of the Executive for the periods covered by 12 of the 16 travel claims cited.*

*Monitoring of spending:*

- *The College will submit invoices to the Association of Canadian Community Colleges for reimbursement.*
- *The employee received the advance in mid-March and travelled to Qatar in April. The advance was settled upon the processing of a travel claim in May. The advance was properly recorded on the employee's account.*
- *The airline ticket was used within a few days of the postponement of the original trip. Accounts receivable staff later removed the charge from the employee's account.*
- *The course began in September, the finals were in December and the marks were released in February or March. The College does not remove the advance for Professional Development from the system until the employee produces his/her marks as proof of completion of the course. The employee later submitted the marks and the advance payment was removed from the individual's account.*

**C. Employee recognition and benefits**

- *The College policy of recognizing long serving employees with a modest gift upon retirement is a sound human resource practice and is similar to Government's policy.*

- *Access to College courses is provided to staff at no cost when seats remain vacant after registration. The faculty collective agreement provides employees access to courses at no cost as a negotiated benefit. This has been an ongoing practice at the College for in excess of twenty years.*

#### **D. Relocation**

- *Government's relocation policy provides for the payment of "reasonable and necessary legal and mortgage fees (including mortgage insurance fees) for the purchase or construction of a new residence...." The mortgage insurance was interpreted as a fee under this policy. Future claims for this cost will be rejected.*
- *The College acknowledges the Auditor General's finding that there was a delay in the submission of proper documentation.*

#### **E. External consultants**

*The College does not have a policy for selecting external consultants but is developing one that will be consistent with Government's policy.*

##### *Proposals and extensions*

- *In each of the cases cited the estimate for the original work under the consulting contract was for less than the amount for which the College would have been required to invite proposals. The contracts were extended after they were in place at the rates originally quoted and in fact did exceed the amounts stated in Government policy if it were applied.*

##### *Contract approvals*

- *Requests for Proposals were solicited and evaluated using an objective, open and transparent process. All firms evaluated were satisfied with the outcome and no objections to the process were noted.*

#### **F. Cellular telephones**

- *The College does in fact monitor the use of cellular telephones. The Aliant report referred to by the Auditor General was solicited by the College to aid management in the analysis of cellular phone usage. The College, in conjunction with the service provider, reviews cell phone usage data on a semi-annual basis with the specific objective of right-sizing airtime packages. The College had already completed such a review prior to the audit, which resulted in reduced costs. Furthermore, another review has taken place since the audit.*
- *The College is currently reviewing its policy with respect to cellular telephone use by non-management staff. The non-management staff referenced include, for the most part, information technology staff who travel throughout the province and require cell phones in order to effectively and responsively perform their duties. The present policy allows the Director of Administration to make these operational decisions.*
- *Personal calls that result in incremental charges to the College are recovered. Employees are required to identify personal calls.*

#### **5. Public Tender Act**

- *The dismantling and movement of the aircraft required highly specialized technical expertise and equipment. It was determined that the College was not, therefore, required to tender this work under section 2(g) of the Public Tender Act.*
- *The acquisition, installation, and ongoing support of an integrated computer software system for the entire College cannot be compared to the purchase of a common commodity. There is considerable expertise and creativity required for a project of this magnitude and complexity as there are a limited number of vendors capable of providing the service. The College engaged in a rigorous and transparent process by issuing a Request for Proposals to potential suppliers, and engaging an external consulting firm to aid in objectively assessing the bids and awarding the contract. There were factors other than cost considered and the contract was awarded based on the evaluation of all factors. The process was fair and open. None of the unsuccessful bidders questioned the final award of the contract.*

- *A tender for goods or service is not required if the estimated cost is less than \$10,000. The estimated cost of the movement of the household goods was \$8,000 based upon the estimated weight of the household goods therefore a call for tenders was not pursued. However, due to the actual weight of the household goods the rate exceeded the threshold.*
- *The College acknowledges the finding of the Auditor General that it failed to complete the proper forms for the Government Purchasing Agency with respect to the purchase of postage from Canada Post. All appropriate forms will be completed in future.*

*Lease of space*

- *The College is working with the Department of Education to resolve the issues associated with the lease agreement in Labrador City. The property is a former school and was the only suitable existing facility in Labrador City when the campus assumed its current location. Government announced funds in Budget 2006 to replace the facility and a consultant has been appointed to determine options to meet the College's requirements.*

*Goods and services \$10,000 and less*

- *The College will review and ensure staff comply with its internal policies.*
- *The "Tenders not kept in a locked box until opened" issue has been addressed. An appropriate lock box has been provided with a drop slot from outside the purchasing office to allow for public access during non-working hours.*
- *Tenders are typically for a period of one year with the option to renew for an additional year "provided that prices and services are acceptable to the College of the North Atlantic." This does not limit the ability to obtain the best price.*
- *The items which are tendered for cafeterias would be considered resale items and therefore are not required to be tendered. The College chooses to tender these items in an effort to obtain the best available prices and avoid constant sales calls from vendors to cafeteria staff.*

## **6. Capital Assets**

### **A. Capital assets ledger**

*When the Provincial Government closed the Topsail Road campus, the cited items were placed in storage due to serious mold contamination. It took time for the Department of Transportation and Works to determine that the assets could not be cleaned and eventually dispose of them. When these items were disposed, the disposal forms were not properly completed. The assets were not identified because there would not have been a scan of campus location #72 after it closed. Any assets that were transferred to other campus buildings did have their locations changed in the database when they were later scanned. The disposed assets were removed from the system as of March 31, 2005. In future analyses will be completed to ensure all location codes in the database system are reasonable and assets will be disposed properly.*

### **B. Controls over electronic equipment**

- *It is not unusual that laptop computers assigned to individual employees may be at their homes or with an employee travelling on College business as this is the primary purpose for having this type of equipment. All seven computers were properly accounted.*
- *These assets were found in the correct building and floor but not in the room as indicated in the database. As mentioned above, these assets are mobile and are not tracked each time they are moved from room to room. They are however inventoried at least once a year.*

### **C. Control over vehicles**

- *The College will enhance and expand its monitoring capabilities as recommended.*

### **D. Lease costs**

- *The College, the Department of Education, and the Department of Transportation and Works are working together to resolve the lease issue identified in the report.*

<







# Highlights

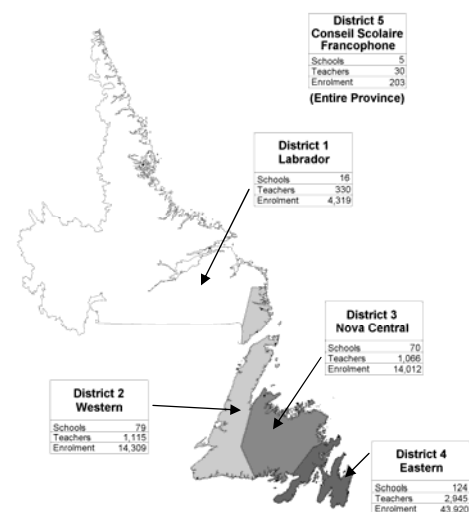
Highlights of a monitoring review of School Boards from 1 July 2005 to 30 June 2006.

## Why our Office Did this Review

As part of our work we continue to monitor the financial position and annual operating results of the Province's school boards.

Figure 1 shows the 5 current board boundaries.

**Figure 1**  
**Department of Education**  
**School Board Boundaries**



## What the Department Said

To provide balance to this report and to ensure full disclosure, the Department was asked to formulate a response to our observations and conclusions. The Department's response, verbatim, is included at the end of this report. Readers are encouraged to consider the Department's comments in this regard.



To view the full report, refer to the web site [www.gov.nl.ca/ag/reports.htm](http://www.gov.nl.ca/ag/reports.htm) For more information, contact Nina Goudie, Director of Information Resources, 709-729-2346 or [ninagoudie@gov.nl.ca](mailto:ninagoudie@gov.nl.ca).

## Chapter 2, Part 2.5 DEPARTMENT OF EDUCATION Monitoring School Boards

Effective 1 September 2004, 9 of the 11 school boards in the Province were dissolved and 3 new boards were created resulting in 4 English language school boards and 1 French language school board.

As a result of the reorganization on 1 September 2004, 3 of the 5 new school boards had to prepare financial statements for the 10 month period ending 30 June 2005. The other 2 school boards prepared financial statements for the 12 month period ending 30 June 2005.

### What We Found

#### (a) Significant change in school system

The Province has seen a significant change in the school system during the last 10 years. In the 1996-97 school year, there were 432 schools serving 106,205 students and Provincial grants totalled \$487.9 million. In the 2005-06 school year, there were 294 schools serving 76,763 students and Provincial grants totalled \$578.0 million.

#### (b) Financial position

All 5 school boards had accumulated deficits as at 30 June 2006. The combined financial position of the 5 boards at 30 June 2006 shows total accumulated deficits of \$108.1 million, a 2% decrease from the \$110.7 million reported in 2005. Included in the accumulated deficit is an amount of \$103.0 million related to severance pay and leave accruals and \$9.8 million in net summer pay liability, less a net accumulated operating surplus of \$4.7 million. The accumulated deficits will eventually have to be funded by Government.

The Eastern Board accounted for \$53.5 million or 49% of the total \$108.1 million in accumulated deficits.

#### (c) Operating results

All 5 boards reported operating surpluses for the year ended 30 June 2006 totalling \$5.1 million. Operating surpluses ranged from \$349,000 for the Labrador School Board to \$2.3 million for the Eastern School Board. Because of inconsistent reporting periods resulting from the restructuring of school boards in 2004, comparisons with prior years' financial results would not currently be meaningful. It will be next year before effective and meaningful comparisons can be performed.

#### (d) Non-compliance with the *Schools Act, 1997*

Contrary to the *Schools Act, 1997*, 2 school boards did not submit their annual budgets for the 2007 fiscal year to the Minister for approval by 31 October 2006 as required by the Minister. The budget for the Conseil Scolaire Francophone was not submitted until 13 December 2006 and the Eastern Board still had not submitted its budget as of 14 December 2006, i.e. 6 months into the fiscal year.

## Introduction

### Overview

Effective 1 September 2004, 9 of the 11 school boards in the Province were dissolved and 3 new boards were created resulting in 4 English language school boards and 1 French language school board.

Figure 1 shows the 5 current board boundaries.

Figure 1

### Department of Education School Board Boundaries

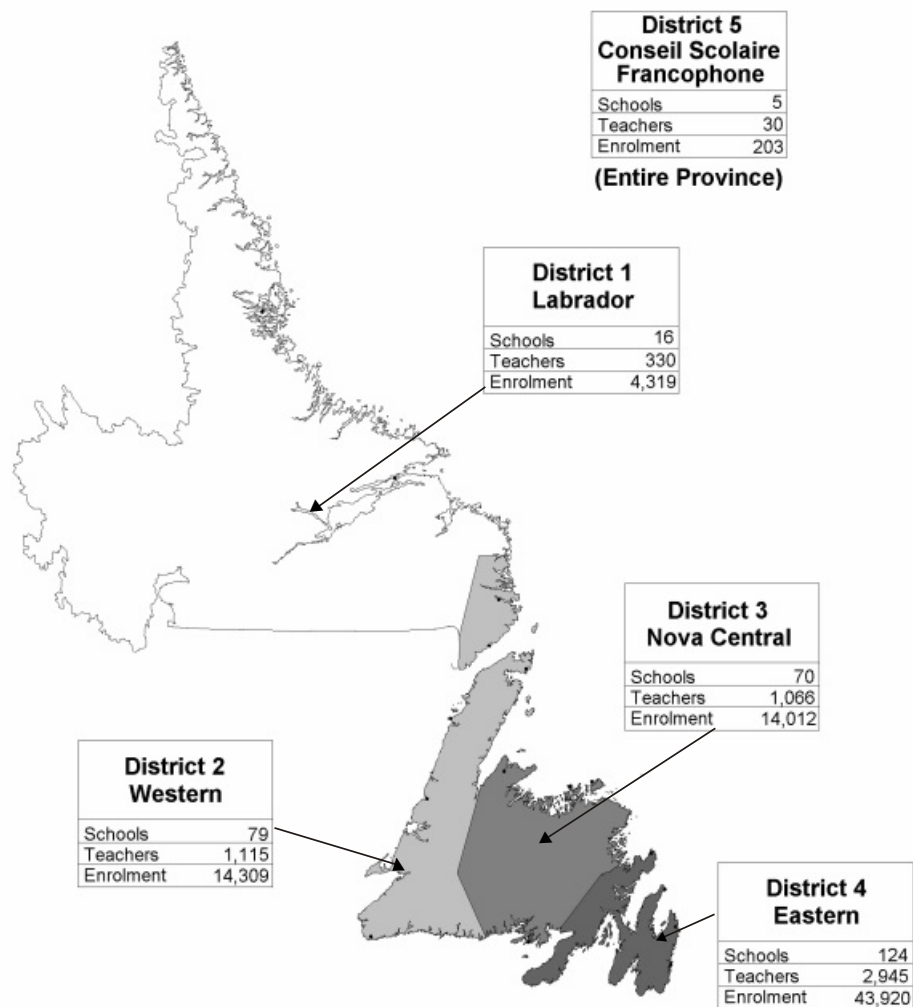


Figure 2 shows the number of schools, students enrolled and total Provincial grants for the last 10 school years.

**Figure 2**

**Department of Education  
School Boards  
Schools, Students and Grants**

<b>School Year</b>	<b>Schools</b>	<b>Students</b>	<b>Provincial Grants \$ (000s)</b>
2005-06	294	76,763	578,032
2004-05	303	79,439	538,704
2003-04	305	81,458	636,552
2002-03	317	84,268	554,381
2001-02	326	86,898	528,188
2000-01	337	90,167	499,419
1999-00	343	93,957	489,760
1998-99	365	97,401	489,486
1997-98	391	101,608	485,111
1996-97	432	106,205	487,902

Source: Department of Education Statistics and school boards' financial statements.

As part of our work we continue to monitor the financial position and annual operating results of the school boards.

## Conclusions

### Significant change in school system

The Province has seen a significant change in the school system during the last 10 years. In the 1996-97 school year, there were 432 schools serving 106,205 students and Provincial grants totalled \$487.9 million. In the 2005-06 school year, there were 294 schools serving 76,763 students and Provincial grants totalled \$578.0 million.

### Financial position

All 5 school boards had accumulated deficits as at 30 June 2006. The combined financial position of the 5 boards at 30 June 2006 shows total accumulated deficits of \$108.1 million, a 2% decrease from the \$110.7 million reported in 2005. Included in the accumulated deficit is an amount of \$103.0 million related to severance pay and leave accruals and \$9.8 million in net summer pay liability, less a net accumulated operating

---

## Monitoring School Boards

---

surplus of \$4.7 million. The accumulated deficits will eventually have to be funded by Government.

The Eastern Board accounted for \$53.5 million or 49% of the total \$108.1 million in accumulated deficits.

---

### Operating results

All 5 boards reported operating surpluses for the year ended 30 June 2006 totalling \$5.1 million. Operating surpluses ranged from \$349,000 to \$2.3 million.

Because of inconsistent reporting periods resulting from the restructuring of school boards in 2004, comparisons with prior years' financial results would not currently be meaningful. It will be next year before effective and meaningful comparisons can be performed.

---

### Non-compliance with the Schools Act, 1997

Contrary to the *Schools Act, 1997*, 2 school boards did not submit their annual budgets for the 2007 fiscal year to the Minister for approval by 31 October 2006 as required by the Minister. The budget for the Conseil Scolaire Francophone was not submitted until 13 December 2006 and the Eastern Board still had not submitted its budget as of 14 December 2006, i.e. 6 months into the fiscal year.

---

## Observations

---

### Background

Our review of the school boards included an assessment of the financial position and annual operating results of the Province's school boards.

As a result of the reorganization on 1 September 2004, 3 of the 5 new school boards had to prepare financial statements for the 10 month period ending 30 June 2005. The other 2 school boards prepared financial statements for the 12 month period ending 30 June 2005.

Therefore, because of the inconsistent reporting periods for 2005, comparisons with the 2006 financial results would not currently be meaningful for 3 of the 5 school boards or for the system in total. It will be next year before effective and meaningful comparisons can be performed.

---

## 1. Financial Position

---

### Summary

Figure 3 outlines information on the financial position of the 5 boards.

Figure 3

**Department of Education  
School Boards  
Summary of Financial Position  
Years Ended  
(\$ 000's)**

	Board					Total	
	Labrador	Western	Nova Central	Eastern	Conseil Scolaire Francophone	2006	2005 Note 1
Current Assets							
Cash and investments	863	1,145	3,061	5,375	364	10,808	3,449
Accounts receivable	1,505	1,483	3,650	4,367	141	11,146	10,179
Summer pay receivable	3,384	10,775	-	28,279	234	42,672	43,208
Other assets	64	186	356	473	8	1,087	1,069
Total current assets	5,816	13,589	7,067	38,494	747	65,713	57,905
Trust funds	-	-	406	-	-	406	390
Other Assets	-	-	-	1,888	-	1,888	2,262
Capital assets	42,546	159,315	169,085	306,427	8,195	685,568	673,640
Total assets	48,362	172,904	176,558	346,809	8,942	753,575	734,197
Current Liabilities							
Bank indebtedness	-	-	-	-	-	-	316
Accounts payable	478	786	4,937	4,592	311	11,104	6,837
Summer pay liability	3,384	10,775	9,834	28,279	234	52,506	53,294
Deferred revenue	976	1,337	376	1,936	121	4,746	2,691
Current maturities	163	302	1,108	1,656	-	3,229	2,815
Total current liabilities	5,001	13,200	16,255	36,463	666	71,585	65,953
Trust funds liability	-	-	406	-	-	406	390
Long-term debt	852	1,961	6,962	8,126	-	17,901	17,366
Severance pay and leave	6,183	20,545	20,350	55,721	173	102,972	103,638
Total liabilities	12,036	35,706	43,973	100,310	839	192,864	187,347
Equity							
Investment in capital	42,514	157,104	161,015	300,031	8,172	668,836	657,544
Deficit	(6,188)	(19,906)	(28,430)	(53,532)	(69)	(108,125)	(110,694)
Total equity	36,326	137,198	132,585	246,499	8,103	560,711	546,850
Total liabilities and equity	48,362	172,904	176,558	346,809	8,942	753,575	734,197

Source: 30 June 2006 audited financial statements and Department of Education information

Note 1: 2005 figures include only 10 months for Western, Nova Central, and Eastern due to the restructuring in 2004.

Certain 2005 amounts have been reclassified to conform to the financial statements presentation for 2006.

Retroactive adjustments for accounting errors have resulted in an increase in the deficit for 2005.

## Monitoring School Boards

As Figure 3 shows, the total accumulated deficit for the school boards decreased from \$110.7 million in 2005 to \$108.1 million in 2006. The \$108.1 million in combined accumulated deficits will eventually have to be funded by Government.

### Non-compliance with Department directive

In 2005, the Department directed each board to record a liability for teachers' salaries earned during the school year but not fully paid to teachers until after the fiscal year end. The Department also directed school boards to not record an accounts receivable for the liability.

Our review identified that all 5 boards recorded a liability in 2005 and 2006; however, 4 of the 5 boards also recorded an offsetting accounts receivable as shown in Figure 3. As such, only 1 board complied with the Department's directive (Nova Central).

### Accumulated deficits

At 30 June 2006, the 5 school boards had accumulated deficits totalling \$108.1 million. This was comprised of \$103.0 million in severance pay and leave accruals and \$9.8 million in net summer pay liability, less a net accumulated operating surplus of \$4.7 million. A summary of these amounts is provided in Figure 4.

Figure 4

### Department of Education School Boards Accumulated Surplus (Deficit) Years Ended (\$ 000's)

Board	2006				2005 (Note 1)			
	Total	Leave/ Severance	Net Summer Pay Liability	Operating	Total	Leave/ Severance	Net Summer Pay Liability	Operating
Labrador	(6,188)	(6,183)	-	(5)	(6,376)	(6,144)	-	(232)
Western	(19,906)	(20,545)	-	639	(20,674)	(21,181)	-	507
Nova Central	(28,430)	(20,350)	(9,834)	1,754	(29,691)	(20,362)	(10,086)	757
Eastern	(53,532)	(55,721)	-	2,189	(53,808)	(55,729)	-	1,921
Conseil Scolaire Francophone	(69)	(173)	-	104	(145)	(222)	-	77
<b>Total</b>	<b>(108,125)</b>	<b>(102,972)</b>	<b>(9,834)</b>	<b>4,681</b>	<b>(110,694)</b>	<b>(103,638)</b>	<b>(10,086)</b>	<b>3,030</b>

Source: 30 June 2006 audited financial statements and Department of Education information

Note 1: 2005 figures include only 10 months for Western, Nova Central, and Eastern due to the restructuring in 2004.

Certain 2005 amounts have been reclassified to conform to the financial statements presentation for 2006.

Retroactive adjustments for accounting errors have resulted in an increase in the deficit for 2005.

## 2. Operating Results

### Summary

Figure 5 outlines the annual operating results of the 5 school boards.

### Figure 5

**Department of Education  
School Boards  
Operating Results  
Years Ended  
(\$ 000's)**

	Board					Total	
	Labrador	Western	Nova Central	Eastern	Conseil Scolaire Francophone	2006	2005 Note 1
<b>Revenue</b>							
Provincial grants							
Teachers	28,638	99,162	83,803	239,919	2,255	453,777	428,601
Regular operating	5,733	17,418	17,414	42,011	1,530	84,106	74,891
Pupil transportation	2,089	6,432	8,923	19,638	264	37,346	32,891
Other Provincial grants	-	2,182	521	-	100	2,803	2,321
<b>Total Provincial grants</b>	<b>36,460</b>	<b>125,194</b>	<b>110,661</b>	<b>301,568</b>	<b>4,149</b>	<b>578,032</b>	<b>538,704</b>
Federal grants	2,706	-	114	28	1,223	4,071	3,449
Ancillary services	197	143	65	44	124	573	445
Miscellaneous revenue	601	383	2,041	660	16	3,701	3,067
<b>Total Revenue</b>	<b>39,964</b>	<b>125,720</b>	<b>112,881</b>	<b>302,300</b>	<b>5,512</b>	<b>586,377</b>	<b>545,665</b>
<b>Expenditure</b>							
Administration	1,452	2,883	2,498	4,514	476	11,823	11,548
Instructional	31,908	103,234	87,904	247,195	3,476	473,717	444,582
Operations and maintenance	3,913	12,275	12,216	28,047	483	56,934	48,626
Pupil transportation	2,145	6,476	9,236	19,662	266	37,785	33,836
Ancillary services	188	66	-	131	112	497	377
Miscellaneous	-	29	-	102	-	131	247
Debt repayment	9	34	17	372	-	432	400
<b>Total expenditure</b>	<b>39,615</b>	<b>124,997</b>	<b>111,871</b>	<b>300,023</b>	<b>4,813</b>	<b>581,319</b>	<b>539,616</b>
Operating surplus	349	723	1,010	2,277	699	5,058	6,049
Equity adjustments	165	-	251	-	-	416	(10,121)
Net transfer to capital	(326)	45	-	(2,001)	(623)	(2,905)	(2,263)
<b>Decrease (increase) in deficit</b>	<b>188</b>	<b>768</b>	<b>1,261</b>	<b>276</b>	<b>76</b>	<b>2,569</b>	<b>(6,335)</b>

Source: 30 June 2006 audited financial statements.

Note 1: 2005 figures include only 10 months for Western, Nova Central, and Eastern due to the restructuring in 2004.

Certain 2005 amounts have been reclassified to conform to the financial statements presentation for 2006.

Retroactive adjustments for accounting errors have resulted in an increase in the deficit for 2005.



As Figure 5 shows, all 5 boards reported annual operating surpluses for 2006 totalling \$5.1 million. Operating surpluses ranged from \$349,000 for the Labrador Board to \$2.3 million for the Eastern Board. The Figure also shows that in 2006, Provincial funding totalled \$578 million. This accounted for approximately 13% of the expenditures budgeted by the Province.

---

**Non-compliance with the Schools Act, 1997**

The *Schools Act, 1997* requires each school board to submit its annual budget to the Minister at a date determined by the Minister. For the 2007 fiscal year, the Minister set 31 October 2006 as the date for submitting annual budgets. However, the Conseil Scolaire Francophone and the Eastern Board did not submit their annual budgets by 31 October 2006. The Conseil Scolaire Francophone submitted its budget on 13 December 2006 and the Eastern Board had not submitted its budget as at 14 December 2006, i.e. 6 months into the fiscal year.

---

### Department's Response

---

#### ***Financial Position***

*The five school boards have accumulated deficits of \$108.1M as at 30 June 2006 offset by a commitment from Government to fund the portion of these deficits attributable to severance pay and leave awards totalling \$103.0M.*

#### ***Operating Results***

*The Department is pleased that the Boards recorded net operating surpluses of \$5.1M as of June 30, 2006.*

*The Department did receive financial information from all of the Boards for the 12 month period ending June 30, 2006 which facilitated consistent and meaningful comparisons of financial results.*

### ***Non-Compliance with the Schools Act, 1997.***

*The Department concurs with the Auditor General's comments that school boards did not submit their budget by the date set by the Minister. The Department continues to work with school boards concerning the timelines of budget submissions.*

### ***Non-Compliance with the Departmental Directive***

*The Department notes that it has been a long standing practice to direct boards to record a liability for teacher salaries earned during the school year but not fully paid until after year-end and not to record an accounts receivable for the liability. All boards complied with recording the liability, however, four of the five auditors believed that in their professional opinion, it would be appropriate to record the offsetting accounts receivable. The- 2 -*

*Department will be discussing this issue further with the boards auditors and the Comptroller General to determine how compliance may be achieved in future.*



## Highlights

Highlights of a review of the Liquor Licensing and Enforcement Program for fiscal years 2002 to 2005.

### Why our Office Did this Review

The main purpose of our review was to complete the examination of issues identified in the Liquor Licensing and Enforcement Program that we started in 2004 and to conduct an additional review in 2005 of licensee files maintained by the Corporation. In particular, our objectives were to determine how licensing and enforcement issues identified in our 2004 review were resolved by the Corporation and review the administration of the Liquor Licensing and Enforcement Program at the Corporation.

### What our Office Recommends

We recommend that the Corporation should:

- ensure that licenses are issued consistently and in accordance with the *Act* and *Regulations*;
- ensure that the *Act* and *Regulations* are enforced in a consistent and timely manner;
- establish guidelines for the Director of Regulatory Services to use in determining under what circumstances an enforcement issue should be brought to the Tribunal for review;
- ensure that the database containing licensee information is kept up to date;
- adopt a strategic risk-based approach for planning inspections; and
- establish inspection frequencies for the various license categories.

### What the Corporation Said

To provide balance to this report and to ensure full disclosure, the Corporation was asked to formulate a response to our findings and conclusions. The Corporation's response, verbatim, is included at the end of this report. Readers are encouraged to consider the Corporation's comments in this regard.

◆ ◆ ◆ ◆ ◆

To view the full report, refer to the web site [www.gov.nl.ca/ag/reports.htm](http://www.gov.nl.ca/ag/reports.htm). For more information, contact Nina Goudie, Director of Information Resources, 709-729-2346 or [ninagoudie@gov.nl.ca](mailto:ninagoudie@gov.nl.ca).

### Chapter 2, Part 2.6

## NEWFOUNDLAND AND LABRADOR LIQUOR CORPORATION Liquor Licensing and Enforcement

The *Liquor Control Act* provides authority to the Board of Directors (the Board) of the Newfoundland and Labrador Liquor Corporation (the Corporation) to (i) control the possession, sale and delivery of liquor; (ii) appoint officials to issue licenses and permits to sell or distribute liquor; (iii) appoint or authorize inspectors; and (iv) enforce the *Act* and *Liquor Licensing Regulations* through the cancellation or suspension of licenses.

In 2004, our office reviewed and reported on the Department of Government Services' administration of the Liquor Licensing and Enforcement Program for the fiscal years 2002, 2003 and 2004. In most instances, documentation supporting licensing and inspection activities was available at the Government Services Centre. However, the final resolution of some licensing and inspection issues was only available from the Corporation. Our request to review those records was refused by the Corporation, making us unable to complete the review.

On 11 March 2004, we forwarded a Special Report to the House of Assembly to explain the situation. In 2005, the Corporation provided my Office with access to the information necessary to complete my review of the Liquor Licensing and Enforcement Program for fiscal years 2002, 2003 and 2004.

### What We Found

Our review identified instances where the Newfoundland and Labrador Liquor Corporation issued licenses inconsistently and in contravention of the *Liquor Control Act* and *Regulations*. We also found that violations by licensees were not resolved in a timely and consistent manner. In particular:

#### 2004 Review:

##### (a) Licenses/requests issued inconsistently or approved in contravention of the *Act* and *Regulations*

We identified issues with 10 license applications or requests. These issues included 2 instances where applications were denied when similar applicants had been issued a license, and 8 instances where applicants were issued licenses or requests were approved in contravention of the *Act* and *Regulations*.

##### (b) Unresolved enforcement issues

In our review of enforcement issues, we found that there were unresolved enforcement issues in 4 enforcement files reviewed. As at November 2005, the time elapsed since the violations were identified ranged from 3 months to 44 months.

#### 2005 Review:

##### (c) License issued in contravention of the *Regulations*

We identified an issue with 1 of the applications where a license was transferred several years ago to an applicant with a lengthy criminal history. The license was renewed each year since then. Since the initial transfer, the licensee has been convicted of four additional criminal charges. Issuing this license was a violation of the *Regulations*.

(d) Inconsistent actions taken by the Tribunal and delays in disciplinary action  
Licensees were treated inconsistently by a Tribunal of Board members and disciplinary action did not occur in a timely manner.

##### (e) Other issues

We also found that inspection planning was inadequate, there were no guidelines for referring enforcement issues to the Tribunal, and the licensee database was not current.

### Introduction

---

#### Background

The *Liquor Control Act* provides authority to the Board of Directors (the Board) of the Newfoundland and Labrador Liquor Corporation (the Corporation) to:

- control the possession, sale and delivery of liquor;
- appoint officials to issue licenses and permits to sell or distribute liquor;
- appoint or authorize inspectors; and
- enforce the *Liquor Control Act* (the *Act*) and *Liquor Licensing Regulations* (the *Regulations*) through the cancellation or suspension of licenses.

The *Regulations* provide further direction regarding the licensing of establishments and the manner in which liquor is to be sold.

In 1995, Government transferred responsibility for the Liquor Licensing and Enforcement Program (the Program) to the Department of Government Services (the Department). The Program was administered by the Department's Government Service Centre (GSC). The transfer of responsibilities was finalized in 1998 through signing of a formal Memorandum of Understanding (MOU) between the Corporation and the Department.

In accordance with the MOU, the Corporation continued to maintain control over liquor licensing and enforcement through its authorization and review processes. The extent to which the Board was involved depended on circumstances associated with each case. For example, some license applications that had issues were referred to the Corporation for review and final approval. In addition, the Corporation authorized enforcement measures for license violations through a Tribunal made up of the Chair of the Board and 2 other members.

In 2005, the Government transferred the Liquor Licensing and Enforcement Program back to the Corporation.

In 2004, I reviewed and reported on the Department's administration of the Liquor Licensing and Enforcement Program for the fiscal years 2002, 2003 and 2004. In most instances, documentation supporting licensing and inspection activities was available at the GSC. However, the final resolution of some licensing and inspection issues was only available from the Corporation. Our request to review those records was refused by the Corporation, making us unable to complete the review.

On 11 March 2004, I forwarded a Special Report to the House of Assembly to explain the situation. In 2005, the Corporation provided my Office with access to the information necessary to complete my review of the Liquor Licensing and Enforcement Program for fiscal years 2002, 2003 and 2004.

---

### Audit Objectives and Scope

---

#### Objectives

The main purpose of our review was to complete the examination of issues identified in the Liquor Licensing and Enforcement Program that we started in 2004 and to conduct an additional review in 2005 of licensee files maintained by the Corporation. In particular, our objectives were to:

- determine how licensing and enforcement issues identified in our 2004 review were resolved by the Corporation; and
  - review the administration of the Liquor Licensing and Enforcement Program at the Corporation.
- 

#### Scope

We completed our review in November 2005. Our review included an examination of both the licensing and enforcement components of the Liquor Licensing and Enforcement Program. We met with officials of the Corporation and examined a sample of licensee files. Our review of these files involved examining the licensees' history with the Corporation, including original application, subsequent renewals and enforcement issues.

---

### Conclusions

---

#### Overall

Our review identified instances where the Newfoundland and Labrador Liquor Corporation issued licenses inconsistently and in contravention of the *Liquor Control Act* and *Regulations*. We also found that violations by licensees were not resolved in a timely and consistent manner. In addition, and as noted during our 2004 review, there was an overall lack of planning in the performance of inspections. In particular:

---

#### Licenses/ requests issued inconsistently or approved in contravention of the *Act* and *Regulations*

##### *Licensing issues identified in 2004 review*

We identified issues with 10 of the 16 applications or requests reviewed. These issues included 2 instances where applications were denied when similar applicants had been issued a license, and 8 instances where applicants were issued licenses or requests were approved in contravention of the *Act* and *Regulations*. Contraventions included:

- 6 licenses issued without the required fee being charged;
- 1 application not validated by a person authorized to administer an oath; and
- 1 request approved that allowed alcohol to be removed from licensed premises and consumed on the street.

#### Unresolved enforcement issues

##### *Enforcement issues identified in 2004 review*

We identified issues with 6 of the 15 enforcement files reviewed. These issues included:

- 1 violation where no enforcement action had been taken. As at November 2005 the time elapsed since the violation was identified was 3 months.
- 3 violations where, although enforcement action had been taken, the matter was still not resolved. As at November 2005 the time elapsed since the violations were identified ranged from between 27 and 44 months.

- 2 violations relating to the same licensee where the Corporation authorized a contravention of the *Regulations* by permitting alcohol to be consumed from an inappropriate container and by permitting the sale and consumption of alcohol in the concourse area of a facility during an all-ages indoor concert.

**License issued in contravention of the *Liquor Licensing Regulations***

***Licensing issue identified in 2005 review***

We identified an issue with 1 of the 8 applications reviewed. This issue related to an instance where a license was transferred several years ago to an applicant with a lengthy criminal history. The license was renewed each year since then. Since the initial transfer, the licensee has been convicted of four additional criminal charges.

Issuing this license was a violation of the *Liquor Licensing Regulations*.

The licensee omitted information regarding the two most recent convictions on the 2004 and 2005 renewal applications. Once the Corporation became aware of these convictions through Court documents, the licensee received a 5 day suspension of the license.

**Inconsistent actions taken by the Tribunal and delays in disciplinary action**

***Enforcement issues identified in 2005 review***

Licensees were treated inconsistently by the Tribunal. Letters of reprimand were issued to licensees with only one violation as well as to licensees with numerous violations.

We also found that the Corporation does not always resolve enforcement issues in a timely manner. We identified issues with 6 of the 7 enforcement files reviewed. These issues included 4 instances where letters of reprimand were not issued until between 3 months and 23 months after the violations occurred, 1 instance where the license was not suspended until 16 months after the violation, and 1 instance where there was no evidence that any enforcement action had been taken as of the date of our review. Violations included minors being on the premises and the sale and consumption of alcohol after hours.

**Delays in reviewing violations by the Tribunal**

There were no Tribunal sittings from December 2002 to March 2005, resulting in a backlog of 10 licensees that had violations which were waiting to be reviewed by the Tribunal when the sittings resumed. From April 2005 to the date of our review in November 2005, the Tribunal held two sittings. For 6 licensees sampled, the elapsed time between the date of the violation and the date of the sitting ranged from 2 months to 56 months.

### *Other issues*

#### **Inspection planning inadequate**

In our 2004 review we noted that inspection planning was not adequate. Our review in 2005 confirmed that inspections continue to be carried out on an ad hoc basis and that information from previous inspection activity is not used to plan subsequent inspection activity.

#### **No guidelines for referring enforcement issues to Tribunal**

The Board has not established guidelines for the Director of Regulatory Services to use in determining under what circumstances enforcement issues should be brought to the Tribunal for review. As a result, there could be inconsistent application of enforcement measures.

#### **Licensee database not current**

A review of the licensee database and discussions with Corporation staff responsible for entering and maintaining the data indicated that information on licensee violations is not entered in the database in a timely manner. The Corporation is currently addressing a backlog that, as of the date of our review, dated back to May 2004.

---

## **Findings and Recommendations**

---

#### **Overview**

Our review included follow-up on 16 licensing and 15 enforcement issues identified during our 2004 review of fiscal years 2002, 2003 and 2004. In 2005, we reviewed 8 new licensing applications and 7 new enforcement files. Our review also included an examination of Board meeting minutes and Tribunal minutes from July 2000 to November 2005. Our findings are presented in this Report as follows:

1. Resolution of Issues Identified in our 2004 Review
    - (a) Licensing
    - (b) Enforcement
  2. Issues Identified in our 2005 Review
    - (a) Licensing
    - (b) Enforcement
  3. Other Issues Identified
-



### Introduction

A person who wishes to sell liquor must obtain a liquor license from the Newfoundland and Labrador Liquor Corporation. Completed applications must be forwarded to the Corporation's head office in St. John's, along with:

- information on shareholders and directors;
- copies of floor plans for the proposed facility;
- building accessibility approvals; and
- evidence of three public notices and three newspaper advertisements relating to the proposed application.

Corporation staff enter information on each applicant into its database. When all of the required application information has been obtained, a pre-licensing inspection is performed by an inspector employed by the Corporation. The results of the pre-licensing inspection are documented on an inspection form. In instances where there are no potential issues identified with the application (*e.g.* opposition to the license or an applicant with a criminal record), the license is issued.

If issues are identified, further review of the application is required. This may include surveys to determine the extent of opposition to an application and/or a review by the Board to grant or deny the application.

---

### Inspection/ Enforcement Process

The *Act* and *Regulations* outline standards to be followed by licensees. The standards are enforced by the Corporation's inspectors through periodic inspections of licensed establishments. The results of each inspection are documented on an inspection report. In the event a violation is identified, the licensee is subject to a Three Step Disciplinary Approach.

---

### Three Step Disciplinary Approach

The Corporation's policy for dealing with violations of the *Act* and *Regulations* is the Three Step Disciplinary Approach as follows:

Step 1: On the 1<sup>st</sup> violation, the inspector issues a routine inspection report and notes the violation. The inspector reviews the issue with the licensee. The licensee is given a copy of the inspection report and a copy is placed in the licensee's file.

Step 2: On the 2<sup>nd</sup> violation, step one is repeated and an Adverse Report is completed by the inspector and sent to the inspector's supervisor. The supervisor reviews the Report and decides whether the matter should be referred to the Director of Regulatory Services.

Step 3: On the 3<sup>rd</sup> violation, step two is repeated. However, in this case, the Adverse Report is automatically forwarded to the Director of Regulatory Services.

When licensees are found to have committed the following serious violations of the *Act* and *Regulations*, the Three Step Disciplinary Approach is bypassed and an Adverse Report is submitted immediately to the Director of Regulatory Services:

- sale of alcoholic beverages to minors;
- contraband alcohol found on licensed premises; and
- a life threatening situation (in this case, the inspector is authorized to suspend the license until the threat is removed).

The Director of Regulatory Services assesses the Adverse Reports to decide whether the enforcement issues identified should be forwarded to the Board's Tribunal for further action. The Tribunal is made up of three members of the Board: the Board's Chair and two other members. The Tribunal holds hearings to determine what disciplinary action should be taken against licensees when they violate the *Act* and *Regulations*. If charges are not dismissed, disciplinary actions taken can include:

- issuing a letter of reprimand;
- suspension of a license; or
- cancellation of a license.

The Board has not established guidelines for the Director of Regulatory Services to use in determining under what circumstances enforcement issues should be brought to the Tribunal for review.

---

## 1. Resolution of Issues Identified in our 2004 Review

### (a) Licensing Issues in our 2004 Review

During our review in 2004 we identified 16 licensing issues for the fiscal years 2002, 2003 and 2004 which had been forwarded by the GSC to the Corporation for resolution. At that time, the Corporation denied us access to their records and we were unable to determine how these licensing issues had been resolved. However, the Corporation did provide access in 2005.

Of the 16 cases reviewed, we identified issues with 10 as follows:

#### Inconsistent issuance of Brewer's Agent licenses

- 2 applicants (a takeout operation and a supermarket) were denied Brewer's Agent licenses, resulting in an inconsistent application of the *Act* and *Regulations* as similar applicants had been issued this type of license.

The *Regulations* read as follows:

*“A brewer's agent license **may not** be granted or renewed in respect of premises that, **in the opinion of the board**, are maintained as a business that is...”* [Emphasis Added]

The wording in the *Act* and *Regulations* such as “*may not*” and “*in the opinion of the board*” give the Board discretion to assess each instance and determine if applicants qualified. We were informed by officials that the Corporation intends to review the *Regulations* to determine if these types of establishments should in fact be prohibited from having a Brewer's Agent license.

#### Licenses or requests were approved in contravention of the *Act* and *Regulations*

- 1 instance related to an application for a lounge license that was forwarded to the Corporation because the original applicant had recent criminal charges. The *Act* states that a license shall not be granted to a person unless he or she is an appropriate person to operate the premises and have not been convicted of a criminal offence within three years of the date of the application that was punishable by imprisonment of one year or more. In addition, the *Regulations* state that licensees must be a person of good character.

Our review of this applicant's file indicated that the Corporation had approved a license for the partner of the original applicant even though:

- The application form had been manually altered by crossing out the name of the original applicant and adding the name of the partner who had no criminal history. Neither the altered application nor the purchase and sale agreement for the premises were valid because they had not been validated by a person authorized to administer an oath.
- The Corporation did not require written assurance from the licensee that the original applicant (with the criminal history) would not be involved with the licensed premises, as had been required of other applicants with similar circumstances.
- 6 instances related to licensees who had been issued Special Event licenses in contravention of the *Act* and *Regulations* because the application fee had been waived, resulting in \$5,405 in lost revenue for the Corporation.

An official at the Corporation indicated that in these cases a directive had been issued by the Board that service organizations could be issued a Special Event license free of charge. However, this directive was not located in the Board's minutes.

In addition, 1 of these 6 licensees was already licensed as a Brewer's Agent. The *Regulations* state that a Special Event license cannot be granted to an applicant who holds another type of liquor license.

- 1 instance related to a request made to the Corporation from an association in St. John's for events held throughout the year. During these events, a street is barricaded and patrons are allowed to leave licensed premises and consume alcohol in the street. These events are in contravention of the *Act* and *Regulations* which provides that alcohol must be consumed on the premises where it is purchased. The GSC was concerned that the *Act* or *Regulations* did not permit such an event and raised this matter with the Corporation.

Our review of this request found that authorization was provided by the Board to allow alcohol to be removed from licensed premises and consumed on the street within the barricaded area for the event. This has happened since 1995; however, the original request for this event in 1987 was rejected by the Corporation because allowing such an event would be in violation of the *Act* and *Regulations*. In addition to the events in St. John's, a similar event was held in the Town of Gander and again approval was provided in contravention of the *Act* and *Regulations*.

### (b) Enforcement Issues Identified in our 2004 Review

In 2004 we identified 15 instances where GSC inspectors had identified violations of the *Act* and *Regulations*. In accordance with established policy, the inspectors at the GSC referred these cases to the Corporation for resolution. As stated earlier, violations by licensees are subject to the Three Step Disciplinary Approach. During our review of the Corporation's records we identified issues with 6 of the 15 instances as follows:

#### Unresolved enforcement issues

- As at November 2005 there was 1 violation where no enforcement action had been taken (time elapsed since the violation was identified was 3 months) and 3 violations where, although enforcement action had been taken, the matter was still not resolved (time elapsed since the violations were identified ranged from between 27 and 44 months) at the time of our review in November 2005. Violations included:
  - contraband alcohol on the premises; and
  - minors consuming alcohol.
- 2 instances related to one licensee that operates an indoor stadium with a recreational facility license. This licensee permitted alcohol to be consumed from glass bottles in contravention of the *Regulations* which requires alcohol to be served in disposable containers with lids. In addition, the licensee permitted the sale and consumption of alcohol in the concourse area of the facility during an all-ages indoor concert.

The *Regulations* state that selling and consumption must be restricted to a separate area “*commonly known as the ice surface*” during such an event. Our review indicated that the licensee had obtained authorization from the Corporation to contravene *Regulations* in this manner. The inspectors were unaware of this authorization, which compromised their efforts to enforce the *Regulations*.

---

## 2. Issues Identified in our 2005 Review

---

### (a) Licensing Issue Identified in our 2005 Review

**License issued  
in  
contravention  
of the *Liquor  
Licensing  
Regulations***

We reviewed 8 samples of license applications containing issues that had been addressed by the Corporation. We identified an issue with 1 of these files. The application involved an instance several years ago where the Board authorized the transfer of a license to an applicant with a lengthy criminal history. The license has been renewed every year since then. Our review of this file indicated that:

- In 1990, the owner of the premises at that time was only permitted to have a license if they validated in writing that the current applicant, with the criminal history, would have no part in the business.
- In 2000, when the license was transferred, the applicant had been convicted on 16 charges from 1987 to 1992 and had two outstanding charges for which they were subsequently convicted, resulting in house arrest in excess of one year.
- With these two additional convictions, an official of the Corporation recommended that the Board cancel the license. After holding a hearing on the matter the Board decided not to cancel the license.
- While operating with this license, the licensee was convicted of two more criminal charges in 2004 that were punishable by imprisonment for 1 year or more. The licensee omitted to provide information of these criminal convictions against them on their renewal applications for 2004 or 2005. Once the Corporation was notified of the convictions through Court documents, a hearing was conducted and the licensee received a 5 day suspension of their license.

Issuing this license is a violation of the *Liquor Licensing Regulations*. The *Regulations* state that an applicant must be a person of good character; however, the term 'good character' is not defined in the *Regulations*. It is not clear how a person with a lengthy criminal history would be considered a person of good character.

---

### (b) Enforcement Issues Identified in our 2005 Review

The Corporation is responsible for enforcing the provisions outlined in the *Act* and *Regulations*. The Corporation's Board has discretion to suspend, cancel or deny licenses based on whether a licensee has complied with the legislation, and/or other qualifying factors.

#### Delays in disciplinary action and inconsistent enforcement measures applied

During our review at the Corporation we selected a sample of 7 licensees who had been referred to the Corporation by the GSC to resolve enforcement issues. Our review indicated that, in most instances, the Corporation does not resolve enforcement issues in a timely manner. Also, many of the licensees in our sample received a letter of reprimand from the Tribunal for contraventions of the *Act* and *Regulations*. We found that applying this form of disciplinary action against licensees was inconsistent because some licensees with one violation were treated the same as licensees with numerous violations. During our review of the Corporation's records we identified issues with 6 of the 7 licensees as follows:

- 1 licensee allowed a minor on the premises on 2 separate occasions. The licensee's liquor license was suspended for a three day period, 16 months after the violations occurred.
- 1 licensee had 2 violations which involved sale and consumption of liquor after hours. As of November 2005, twelve months later, there was no evidence that any action had been taken.
- 4 licensees were issued a letter of reprimand:
  - 1 licensee had a history of 24 violations from 1990 to 2005 including serving alcohol after hours, having a minor on the premises, overcrowding, fire alarm that had been turned off, and supplying alcohol to a minor. A letter of reprimand relating to the most recent convictions of serving alcohol after hours and having a minor on the premises was not issued until 20 months after the last violation occurred;

- 1 licensee was not issued a letter of reprimand until 3 months after being found in violation of the *Act* by allowing two minors to be on the premises;
- 2 licensees were not issued letters of reprimand until 16 and 23 months after violations occurred. One licensee had allowed the sale and consumption of alcohol after hours, while the other licensee had a minor on the premises.

The effectiveness of issuing letters of reprimand long after the violation has occurred is questionable.

### Enforcement issues not resolved in a timely manner

We reviewed the Tribunal proceedings from July 2000 to November 2005 to determine the length of time it takes for a violation to be heard by the Tribunal. We found that, in most instances, the Corporation does not resolve enforcement issues in a timely manner. In particular, we found that:

- The Tribunal held 9 sittings from July 2000 to November 2002. We sampled 22 licensees who had violations reviewed by the Tribunal during these sittings. For these licensees, the elapsed time between the date of the violation and the date of the sitting ranged from 2 months to 38 months.
- There were no Tribunal sittings from December 2002 to March 2005. An official of the Corporation indicated that there were 10 licensees that had violations which were waiting to be reviewed by the Tribunal when the sittings resumed.
- The Tribunal held 2 sittings from April 2005 to the date of our review in November 2005. We sampled 6 licensees who had violations reviewed by the Tribunal during these sittings. For these licensees, the elapsed time between the date of the violation and the date of the sitting ranged from 2 months to 56 months.

---

### 3. Other Issues Identified

---

#### Licensee database is not current

#### Licensee database

Corporation staff maintain a database on licensees which is used to track license fee payments from licensees, document information on new applications, and document enforcement for current licensees. We reviewed the licensee database and interviewed the 5 staff members who



are responsible for entering and maintaining this information. Our review determined that information on licensee violations was not entered in the database in a timely manner. The Corporation is currently addressing a backlog that, as of the date of our review, dated back to May 2004.

---

### Training in self-defense

#### Training and Equipment

In 2004, we reported that inspectors had not received self-defense training since coming to the GSC in 1997 and had not been issued any protective equipment. An official of the Corporation indicated in connection with our 2005 review, that self-defense training was provided. The official also indicated that some protective equipment had been provided to the inspectors and additional equipment will be provided in the 2008 fiscal year.

---

### Inspection planning inadequate

#### Inspection Planning

In our 2004 report we noted that inspection planning was not adequate because:

- a formal risk-based approach for planning did not exist;
- inspection frequencies for each of the license categories (e.g. lounge, hotels) had not been established; and
- information on the number of inspections performed and the results of those inspections not was maintained.

We concluded that inspections were performed on an ad hoc basis without a formal risk assessment and without considering information relating to past inspections.

Our review in 2005 indicated that inspections continue to be carried out on an ad hoc basis. Information from previous inspection activity is not used to plan subsequent inspection activity. We do note however, that inspectors are now required to complete inspection forms to document each visit they make to an establishment. The inspectors are also equipped with new laptop computers and docking stations allowing them better access to information.

---

### **Use of Health Inspectors and Police forces to perform routine inspections**

In 2004, we reported that the GSC used health inspectors and police forces to perform routine inspections of licensees and that no training on the requirements of the *Act and Regulations* was provided to these staff. In addition, we reported that there was no guidance, such as a checklist, to guide this group in performing inspections. This may have resulted in some violations not being detected.

As of the summer of 2005, responsibility for the Liquor Licensing and Enforcement Program was returned to the Corporation. With this move, the Corporation hired six additional inspectors and a full-time supervisor to enforce the *Liquor Control Act and Regulations* and to enforce the Smoke Free Legislation. Therefore, Health Inspectors and Police forces will not be used to perform routine inspections, as was the case in our previous report.

---

## **Recommendations**

---

*The Corporation should:*

- *ensure that licenses are issued consistently and in accordance with the Act and Regulations;*
  - *ensure that the Act and Regulations are enforced in a consistent and timely manner;*
  - *establish guidelines for the Director of Regulatory Services to use in determining under what circumstances an enforcement issue should be brought to the Tribunal for review;*
  - *ensure that the database containing licensee information is kept up to date;*
  - *adopt a strategic risk-based approach for planning inspections; and*
  - *establish inspection frequencies for the various license categories.*
-

### Corporation's Response

---

*The Newfoundland and Labrador Liquor Corporation (NLC) has reviewed the Report on the Liquor Licensing and Enforcement Program for fiscal years 2002, 2003 and 2004 (completion) and 2005.*

*The recommendations made in the Report and our responses to them are addressed below:*

***Recommendation:***

- *Ensure that licenses are issued consistently and in accordance with the Act and Regulations.*

***Response:***

- *All routine licenses are issued consistently and in accordance with the Act and Regulations. Where an application for license requires Board review for various reasons, the Board has discretion under this legislation in its deliberations.*

***Recommendation:***

- *Ensure that the Act and Regulations are enforced in a consistent and timely manner.*

***Response:***

- *NLC has increased the number of hearings to address violations and to ensure disciplinary action is taken in a timely manner.*

***Recommendation:***

- *Establish guidelines for the Director of Regulatory Services to use in determining under what circumstances an enforcement issue should be brought to the Tribunal for review.*

***Response:***

- *While there are verbal guidelines in place, NLC recognizes that these guidelines should be documented.*

**Recommendation:**

- *Ensure that the database containing licensee information is kept up-to-date.*

**Response:**

- *Since the transfer of licensing and inspections services to NLC from the Government Services Centre (GSC), the database has been updated and kept current.*

**Recommendation:**

- *Adopt a strategic risk-based approach for planning inspections.*

**Response:**

- *Since the review and completion of the hiring of new inspectors and a supervisor in late 2005, a formal risk-based approach has been implemented for routine inspections.*

**Recommendation:**

- *Establish inspection frequencies for various license categories.*

**Response:**

- *With the completion of the hiring of new inspectors and a supervisor to coordinate the activities of the inspectors in the various regions in the province, inspection frequencies for the various license categories have increased and are better coordinated.*

**Overview**

*In July 2005, Government authorized the transfer of responsibility for licensing and inspections services performed by existing inspectors with GSC to NLC and authorized the hiring of six additional inspectors and a supervisor. Three inspectors were then in existence, two in St. John's and one in Deer Lake. Two more inspectors were hired for St. John's and one each for Clarenville, Gander, Grand Falls and Corner Brook regions along with a supervisor to coordinate activities throughout the province. The hiring of additional staff was completed in early 2006.*

*The NLC recognized the important role that the regulatory side of the business plays in ensuring that the applicable legislation is adhered to by all stakeholders. As a result, the Department of Corporate Services was created under which the licensing and inspection services would be regulated, overseen by an executive member of the NLC reporting to the President and CEO.*

*The NLC considers the Report as a valuable and timely document in identifying areas that require attention as we move forward in implementing policy and procedures to ensure accuracy and consistency in enforcing the legislation throughout the province as we develop the new Department.*

---



# Highlights

Highlights of a monitoring review of the expenditures of the Consolidated Revenue Fund the fiscal years 2005 and 2006.

## Why our Office Did this Review

As part of our audit of the financial statements of the Consolidated Revenue Fund (CRF), we perform tests and reviews of the expenditures made by the various departments for years ended 31 March.

## Monitoring Categories Explained

- **Grants and Subsidies:** Government has established programs which provide these funds to various Crown agencies, private corporations and individuals. Payments are made to health boards, school boards, the College of the North Atlantic and Memorial University, and certain Crown agencies for operational funding. Other grants and subsidies are paid to private corporations and individuals in accordance with Government programs.
- **Property, Furnishings and Equipment:** This category generally includes capital items such as equipment purchased for use by Government departments as well as funding provided by the Department of Health and Community Services to the various hospital and health and community services boards for the purchase of equipment.
- **Purchased Services:** This category includes such services as heat and light, general maintenance, printing, vehicle rentals and repairs, advertising, and insurance.
- **Professional Services:** Professional services generally includes the fees and expenses of those engaged in a specialty profession such as accountants, doctors, lawyers, and engineers who provide a service, a report or advice to Government.
- **Allowances and Assistance:** These expenditures include costs relating to such items as: allowances for Members of the House of Assembly, social assistance allowances paid to individuals, out of court settlements, and allowances paid on behalf of individuals to organizations.
- **Transportation and Communications:** Expenditures include costs relating to such items as: postage, freight, ambulance and air services, telecommunication services and travel for ministers, government employees and others.

## Chapter 2, Part 2.7

### MONITORING EXPENDITURES OF THE CONSOLIDATED REVENUE FUND

During the past year, we obtained expenditure information from Government's financial management information system relating to all expenditures of the Consolidated Revenue Fund, which for the year ended 31 March 2006 totalled \$4.9 billion (Figure 1). We performed a general review and analysis of amounts paid relating to: grants and subsidies; property, furnishings and equipment; purchased services; professional services; allowances and assistance; and transportation and communications. Details of the expenditures in each of these categories are provided as follows:

#### What We Found

##### (a) Grants and Subsidies

For the year ended 31 March 2006, grants and subsidies amounted to approximately \$2.43 billion or approximately 49.8% of the total expenditures of the Consolidated Revenue Fund. Grants and subsidies are shown in the report by category, department and by type of entity (Figures 2 and 3). Also shown are the names of all entities which received grants and subsidies funding in excess of \$10 million for the fiscal year ended 2006 with comparative figures for 2005 (Figure 4).

##### (b) Property, Furnishings and Equipment

For the year ended 31 March 2006, payments for property furnishings and equipment totalled \$48 million - \$35.3 million (73.5%) of the \$48 million was paid to the hospital and health and community services boards for equipment included in the property, furnishings and equipment category (Figure 5). Also shown are the names of all entities which received payments in excess of \$1 million for the fiscal year ended 2006 with comparative figures for 2005 (Figure 6).

##### (c) Purchased Services

Payments for purchased services totalled \$197 million for the year ended 31 March 2006 (Figure 7). Also shown are the entities which received payments in excess of \$1 million for the fiscal year ended 2006 with comparative figures for 2005 (Figure 8).

##### (d) Professional Services

The report shows, by department, payments for professional services for the year ended 31 March 2006 which totalled \$285 million (Figure 9). These figures are shown in the report by department. Also summarized are payments of professional services to show all entities or individuals who received payments in excess of \$600,000 for the fiscal year ended 2006 with comparative figures for 2005 (Figure 10).

##### (e) Allowances and Assistance

Payments for allowances and assistance totalled \$354 million for the year ended 31 March 2006 (Figure 11). Also summarized are payments of allowances and assistance to show all entities which received payments in excess of \$500,000 for the fiscal year ended 2006 with comparative figures for 2005 (Figure 12).

##### (f) Transportation and Communications

Payments for transportation and communications totalled \$35 million for the year ended 31 March 2006 (Figure 13). Also summarized are the payments for transportation and communications to show all entities which received payments in excess of \$100,000 for the fiscal year 2006 with comparative figures for 2005 (Figure 14).



To view the full report, refer to the web site [www.gov.nl.ca/ag/reports.htm](http://www.gov.nl.ca/ag/reports.htm). For more information, contact Nina Goudie, Director of Information Resources, 709-729-2346 or [ninagoudie@gov.nl.ca](mailto:ninagoudie@gov.nl.ca).

## Monitoring Expenditures of the Consolidated Revenue Fund

### Introduction

As part of our audit of the financial statements of the Consolidated Revenue Fund (CRF), we perform tests and reviews of the expenditures made by the various departments. Figure 1 outlines expenditures, by category, recorded in the Consolidated Revenue Fund financial statements for the years ended 31 March.

**Figure 1**

### Consolidated Revenue Fund Expenditures By Category Years Ended 31 March (\$ Millions)

Consolidated Revenue Fund Expenditures						
Category	2001	2002	2003	2004	2005	2006
Salaries and Employee Benefits	337	361	378	371	356	385
Retirement Costs	(13)	3	96	104	120	102
Transportation and Communications (See Figures 13, 14 )	36	37	38	38	31	35
Supplies	57	54	58	57	56	70
Professional Services (See Figures 9, 10)	194	198	204	248	258	285
Purchased Services (See Figures 7, 8)	240	250	218	135	135	197
Property, Furnishings and Equipment (See Figures 5, 6)	44	49	15	32	9	48
Allowances and Assistance (See Figures 11, 12)	334	343	352	370	346	354
Grants and Subsidies (See Figures 2, 3, 4)	1,829	1,985	2,128	2,230	2,479	2,429
Debt Expenses	878	874	905	1,012	881	877
Information Technology	26	26	26	21	19	-
Bad Debts	28	11	8	26	2	4
Amortization (tangible capital assets)	-	-	-	89	83	88
<b>Total</b>	<b>3,990</b>	<b>4,191</b>	<b>4,426</b>	<b>4,733</b>	<b>4,775</b>	<b>4,874</b>

Source: Consolidated Revenue Fund financial statements

During the past year, we obtained expenditure information from Government's financial management information system relating to all expenditures of the Consolidated Revenue Fund. We performed a general review and analysis of amounts paid relating to: grants and subsidies; property, furnishings and equipment; purchased services; professional services; allowances and assistance; and transportation and communications. Details of the expenditures in each of these categories are provided as follows:

### **Grants and Subsidies**

Government has established programs which provide grants or subsidies to various Crown agencies, private corporations and individuals. These payments are made to health boards, to school boards, to the College of the North Atlantic and Memorial University of Newfoundland, and to certain Crown agencies for operational funding. Other grants and subsidies are paid to private corporations and individuals in accordance with Government support programs.

During the year we continued our process of monitoring and reviewing payments made for grants and subsidies. Figure 2 shows, by department, payments made for grants and subsidies for the year ended 31 March 2006 totalling \$2.43 billion with comparative figures for the year ended 31 March 2005.

As the Figure indicates for the year ended 31 March 2006, grants and subsidies amounted to approximately \$2.43 billion or approximately 49.8% of the total expenditures of the Consolidated Revenue Fund. For the year ended 31 March 2005, payments for grants and subsidies were approximately \$2.48 billion and represented approximately 51.9% of the total expenditures of the Consolidated Revenue Fund.



Figure 2

**Grants and Subsidies Expenditures  
By Department  
Years Ended 31 March  
(\$000's)**

<b>Grants and Subsidies Expenditure by Department</b>		
<b>Department</b>	<b>2005</b>	<b>2006</b>
Health and Community Services	1,325,507	1,382,142
Education	897,937	826,867
Municipal Affairs	127,452	133,267
Human Resources, Labour and Employment	17,263	16,907
Natural Resources	11,115	13,556
Tourism, Culture and Recreation	56,825	12,739
Innovation, Trade and Rural Development	8,302	10,687
Newfoundland and Labrador Housing Corporation	10,673	9,650
Justice	8,085	7,991
Labrador and Aboriginal Affairs	4,872	4,970
Transportation and Works	5,255	3,531
Finance	2,153	3,090
Executive Council	1,547	1,878
Fisheries and Aquaculture	898	849
Environment and Conservation	360	469
Legislature	541	77
Government Services	65	62
<b>Total</b>	<b>2,478,850</b>	<b>2,428,732</b>

Source: Government's Financial Information System

## Monitoring Expenditures of the Consolidated Revenue Fund

We also summarized the payments of grants and subsidies by the type of entity for the year ended 31 March 2006 with comparative figures for the year ended 31 March 2005. The results of this summary are outlined in Figure 3.

**Figure 3**

### Grants and Subsidies Expenditures By Type of Entity Years Ended 31 March (\$000's)

<b>Types of Entities Receiving Grants and Subsidies</b>		
<b>Type of Entity</b>	<b>2005</b>	<b>2006</b>
Health and Community Services Boards and Related Entities	1,293,055	1,359,246
School Boards - Teachers Payroll	402,301	386,699
Memorial University of Newfoundland	190,738	211,318
School Boards and Related Entities - Other Payments	139,012	141,876
Municipalities	127,452	133,267
College of the North Atlantic	63,089	65,858
Educational Agencies and Post Secondary Education Support	30,569	43,541
Economic Renewal, Labour Market and Industry Support	21,444	24,772
Newfoundland and Labrador Housing Corporation	10,673	9,650
Culture and Heritage	53,740	8,846
Provincial Information and Library Resources Board	8,299	8,336
Agriculture Development	5,837	7,696
Newfoundland and Labrador Legal Aid Commission	7,737	7,647
Labrador Agreement and Native Peoples Support	7,807	7,468
Canada-Newfoundland Offshore Petroleum Board	3,599	3,882
Transportation Grants	15,298	3,253
Other Miscellaneous Grants	3,077	2,703
Recreation and Sport	1,941	2,359
Newfoundland and Labrador Film Development Corporation	180	315
Newfoundland and Labrador Education Investment Corporation	93,002	-
<b>Total</b>	<b>2,478,850</b>	<b>2,428,732</b>

Source: Government's Financial Information System

## Monitoring Expenditures of the Consolidated Revenue Fund

Figure 4 provides the names of all entities which received grants and subsidies funding in excess of \$10 million for the year ended 31 March 2006 with comparative figures for the year ended 31 March 2005.

**Figure 4**

**Grants and Subsidies Expenditures  
Payments in Excess of \$10 million  
Years Ended 31 March  
(\$000's)**

<b>Entities Which Received in Excess of \$10 Million</b>		
<b>Entity</b>	<b>2005</b>	<b>2006</b>
Eastern Regional Integrated Health Authority	160	756,392
Memorial University of Newfoundland	190,738	211,318
Central Regional Integrated Health Authority	37	196,036
Western Regional Integrated Health Authority	-	189,496
Labrador-Grenfell Regional Integrated Health Authority	-	86,390
College of the North Atlantic	63,089	65,858
Eastern School District	34,701	61,207
Student Loan Corporation	12,078	27,314
Nova Central School District	15,238	26,990
Western School District	14,784	26,368
Canadian Blood Services	19,455	21,033
Health Care Corporation of St. Johns	417,991	11,402
District #1 School Board	8,466	11,000
Newfoundland and Labrador Housing Corporation	10,673	9,650
Western Health Care Corporation	143,045	6,447
Labrador Health Services Board	48,124	3,809
Peninsulas Health Care Corporation	64,596	3,766
Grenfell Regional Health Care Corporation	44,059	3,673
Central East Health Care Corporation	68,371	2,874
Central West Health Care Corporation	82,508	2,551
Avalon Health Care Corporation	56,365	2,300

## Monitoring Expenditures of the Consolidated Revenue Fund

**Figure 4 (cont'd)**

<b>Entities Which Received in Excess of \$10 Million</b>		
<b>Entity</b>	<b>2005</b>	<b>2006</b>
Newfoundland Cancer Treatment and Research Foundation	16,923	1,375
Eastern Regional Community Health Board	47,168	102
Western Newfoundland Regional Community Health Board	39,967	99
Central Newfoundland Regional Community Health Board	44,489	91
Community Health - St. John s	81,124	-
District #10 School Board	13,452	-
Heritage Corporation of Newfoundland	48,125	-
Newfoundland and Labrador Educational Investment Corporation	93,002	-
St. Johns Nursing Home Board	60,929	-
Grants \$10 million and less paid to over 4,800 entities in 2006 (2005 - over 4,800 entities)	739,193	701,191
<b>Total</b>	<b>2,478,850</b>	<b>2,428,732</b>

Source: Government's Financial Information System

### **Property, Furnishings and Equipment**

The Property, Furnishings, and Equipment category generally includes capital items such as equipment purchased for use by Government departments. This category also includes funding provided by the Department of Health and Community Services to the various hospital and health and community services boards for the purchase of equipment. During the year ended 31 March 2006, the Province paid \$35.3 million (2005 - \$5.3 million) to the hospital and health and community services boards for equipment which is included in the property, furnishings and equipment category. As indicated in Figure 1, payments for property, furnishings and equipment totalled \$48 million for the year ended 31 March 2006. Figure 5 shows, by department, payments made for property, furnishings and equipment for the year ended 31 March 2006 with comparative figures for the year ended 31 March 2005.

Figure 5

**Property, Furnishings and Equipment Expenditures  
By Department  
Years Ended 31 March  
(\$000's)**

<b>Property, Furnishings and Equipment Expenditures by Department</b>		
<b>Department</b>	<b>2005</b>	<b>2006</b>
Health and Community Services	5,290	35,306
Transportation and Works	5,984	10,954
Education	1,212	6,532
Executive Council	53	5,151
Natural Resources	2,104	4,469
Justice	1,711	1,350
Government Services	120	872
Tourism, Culture and Recreation	52	828
Human Resources, Labour and Employment	39	591
Environment and Conservation	331	574
Fisheries and Aquaculture	202	251
Finance	83	109
Legislature	35	95
Municipal Affairs	230	91
Innovation, Trade and Rural Development	54	80
Business	-	50
Labrador and Aboriginal Affairs	4	3
Public Service Commission	2	3
Accrual adjustment for acquisition of tangible capital assets	(8,614)	(19,194)
<b>Total</b>	<b>8,892</b>	<b>48,115</b>

Source: Government's Financial Information System

## Monitoring Expenditures of the Consolidated Revenue Fund

We also summarized the payments for property, furnishings and equipment to show all entities which received payments in excess of \$1 million for the year ended 31 March 2006 with comparative figures for the year ended 31 March 2005. These entities are listed in Figure 6.

**Figure 6**

**Property, Furnishings and Equipment Expenditures  
Payments in Excess of \$1 million  
Years Ended 31 March  
(\$000's)**

<b>Entities Which Received in Excess of \$1 Million</b>		
<b>Entity</b>	<b>2005</b>	<b>2006</b>
Eastern Regional Integrated Health Authority	-	19,355
Western Regional Integrated Health Authority	-	11,353
Western Star Trucks Nfld. Ltd.	2,714	5,287
Cox Hanson O'Reilly Matheson	-	4,100
Central Regional Integrated Health Authority	-	2,767
Newfoundland and Labrador Hydro	-	1,796
College of the North Atlantic	500	1,500
Avalon Ford Sales Ltd.	1,178	1,315
Harvey & Co. Ltd.	-	1,145
xwave Solutions	154	1,101
Roebathan, McKay and Marshall	-	1,100
J W Allen Co. Ltd	-	1,084
Hickman Motors Ltd.	834	1,004
Terra Nova Motors Ltd. (St. Johns)	1,053	-
Payments \$1 million and less to over 500 entities in 2006 (2005 - over 450 entities) net of adjustment for acquisition of tangible capital assets	11,073	14,402
Adjustment for acquisition of tangible capital assets	(8,614)	(19,194)
<b>Total</b>	<b>8,892</b>	<b>48,115</b>

Source: Government's Financial Information System

**Purchased Services**

Purchased services includes such services as heat and light, general maintenance, printing, vehicle rentals and repairs, advertising, and insurance. As indicated in Figure 1, payments for purchased services totalled \$197 million for the year ended 31 March 2006. Figure 7 shows, by department, payments made for purchased services for the year ended 31 March 2006 with comparative figures for the year ended 31 March 2005.

**Figure 7**

**Purchased Services Expenditures  
By Department  
Years Ended 31 March  
(\$000's)**

<b>Purchased Services Expenditures by Department</b>		
<b>Department</b>	<b>2005</b>	<b>2006</b>
Transportation and Works	95,997	154,646
Education	8,183	24,189
Natural Resources	12,507	12,324
Tourism, Culture and Recreation	7,699	11,650
Justice	10,696	7,372
Executive Council	1,581	5,099
Environment and Conservation	3,031	4,136
Health and Community Services	2,304	3,596
Municipal Affairs	3,937	3,279
Government Services	2,847	3,059
Human Resources, Labour and Employment	2,205	2,699
Innovation, Trade and Rural Development	2,031	1,553
Legislature	1,142	1,401
Finance	384	1,243
Fisheries and Aquaculture	1,098	980
Public Service Commission	159	162
Labrador and Aboriginal Affairs	114	140
Business	2	116
Consolidated Fund Services	5	1
Accrual adjustment for acquisition of tangible capital assets	(20,501)	(40,844)
<b>Total</b>	<b>135,421</b>	<b>196,801</b>

Source: Government's Financial Information System

## Monitoring Expenditures of the Consolidated Revenue Fund

We also summarized the payments for purchased services to show all entities which received payments in excess of \$1 million for the year ended 31 March 2006 with comparative figures for the year ended 31 March 2005. These entities are listed in Figure 8.

**Figure 8**

**Purchased Services Expenditures  
Payments in Excess of \$1 million  
Years Ended 31 March  
(\$000's)**

<b>Entities Which Received in Excess of \$1 Million</b>		
<b>Entity</b>	<b>2005</b>	<b>2006</b>
RDN Construction	1,361	17,124
Johnson Construction Ltd.	4,557	14,045
Labrador Marine Inc.	10,627	10,856
Municipal Construction Ltd.	1,949	6,948
Newfoundland Power	6,587	6,716
Target Marketing	-	5,851
J-1 Contracting Limited	4,609	5,351
St. Johns Dockyard Limited	2,370	4,947
Humber Valley Paving Limited	1,580	4,717
Nortech Construction Company	2,574	4,670
Penney Paving	1,101	4,279
Island Aggregates & Ready Mix	555	4,201
Marsh Canada Ltd.	2,065	4,008
College of the North Atlantic	2,828	3,996
Concord Paving Limited	1,654	3,318
Farrells Excavating Ltd.	373	2,951
Trident Construction Limited	1,618	2,602
Star Line Inc.	1,947	2,522
xwave Solutions	28	2,484
Clarenville Drydock Inc.	394	2,480
Ultramar Canada Inc.	1,495	2,449
Pyramid Construction	-	2,181
Eastern Contracting Ltd.	1,102	1,948
Bluebird Investments	526	1,916
RSM Mining Services Inc.	1,726	1,905



## Monitoring Expenditures of the Consolidated Revenue Fund

**Figure 8 (cont'd)**

<b>Entities Which Received in Excess of \$1 Million</b>		
<b>Entity</b>	<b>2005</b>	<b>2006</b>
Power Vac Services	183	1,895
Terra Nova Industries Ltd.	2,514	1,648
10122 Newfoundland Ltd.	1,259	1,606
Federal - Provincial Contractors - Holdback Account	946	1,562
Marine Contractors Ltd.	277	1,502
Bristol Communications Ltd.	4,736	1,389
Steers Insurance Limited	1,406	1,328
Puddister Trading Company Ltd.	891	1,295
Eastern School District	38	1,210
B&M Paving (1983) Ltd.	-	1,197
Atlantic Catering Ltd.	1,213	1,162
Colby Construction Ltd.	1,927	1,128
Newfoundland and Labrador Hydro	1,217	1,107
AMEC Earth & Environmental Ltd.	39	1,081
Sanexen Environmental Services	-	1,070
Cougar Engineering & Construction	43	1,050
Island Roofing Company Ltd.	86	1,028
Budgell's Equipment Rentall	1,485	1,023
Nova Central School District	22	1,020
Irving Oil	1,056	892
Brook Enterprises	1,666	590
Corner Brook Pulp & Paper Ltd.	1,158	589
H.J. O'Connell Construction Ltd.	1,770	511
Northland Contracting Ltd.	1,921	18
Newfound Construction Ltd.	1,546	10
Central East Health Care Institutions Board	1,077	-
Payments \$1 million and less to over 5,000 entities (2005 - over 4,600)	53,319	45,425
<b>Total</b>	<b>135,421</b>	<b>196,801</b>

Source: Government's Financial Information System

## Monitoring Expenditures of the Consolidated Revenue Fund

### Professional Services

Professional services generally include the fees and expenses of those engaged in a specialty profession such as accountants, doctors, lawyers, and engineers who provide a service, a report or advice to Government. As indicated in Figure 1, payments for professional services totalled \$285 million for the year ended 31 March 2006. Figure 9 shows, by department, payments made for professional services for the year ended 31 March 2006 with comparative figures for the year ended 31 March 2005.

**Figure 9**

#### Professional Services Expenditures By Department Years Ended 31 March (\$000's)

<b>Professional Services Expenditures by Department</b>		
<b>Department</b>	<b>2005</b>	<b>2006</b>
Health and Community Services	196,966	209,604
Justice	45,865	49,154
Executive Council	751	15,357
Education	1,196	3,804
Natural Resources	1,396	2,532
Transportation and Works	899	1,937
Human Resources, Labour and Employment	1,979	1,770
Environment and Conservation	991	1,046
Municipal and Provincial Affairs	757	868
Innovation, Trade and Rural Development	1,469	823
Finance	352	547
Tourism, Culture and Recreation	101	538
Legislature	328	532
Consolidated Fund Services	4,060	338
Fisheries and Aquaculture	69	281
Public Service Commission	231	193
Government Services	138	158
Business	153	134
Labrador and Aboriginal Affairs	73	3
Accrual adjustment for acquisition of tangible capital assets	(141)	(4,512)
<b>Total</b>	<b>257,633</b>	<b>285,107</b>

Source: Government's Financial Information System

## Monitoring Expenditures of the Consolidated Revenue Fund

We also summarized the payments of professional services to show all entities or individuals who received payments in excess of \$600,000 for the year ended 31 March 2006 with comparative figures for the year ended 31 March 2005. These entities or individuals are listed in Figure 10.

**Figure 10**

**Professional Services Expenditures  
Payments in Excess of \$600,000  
Years Ended 31 March  
(\$000)'s**

<b>Entities or Individuals Which Received in Excess of \$600,000</b>		
<b>Entity</b>	<b>2005</b>	<b>2006</b>
Receiver General for Canada (e.g. RCMP Contract)	43,947	46,992
Medical Practice Associates	16,226	15,706
xwave Solutions	943	9,972
Eastern Regional Integrated Health Authority	-	5,356
HSC Associated Radiologists	4,651	4,164
LeMarchant Medical	4,167	3,505
Nephrology Partnership	2,701	2,918
Labrador-Grenfell Regional Integrated Health Authority	-	1,940
Pediatric Diagnostic Imaging	1,705	1,814
BAE-Newplan Group Ltd.	134	1,131
Dr. Kevin N. Melvin	855	972
Dr. Palinder Kamra	783	770
Dr. Thomas E. Poole Professional	768	752
Dr. Eric W. Stone	640	750
Central Regional Integrated Health Authority	-	741
SGE Acres Limited	148	739
Dr. M & S Kathirgamanathan Professional	795	738
Dr. Michael Furey	635	714
Dr. Eng T. Tjan	645	713
Dr. Viki Sahajpal	704	700
Dr. Kenneth J. Burrage	675	689
Retina Services Professional	229	680
Dr. Peter D. Hollett	660	640

## Monitoring Expenditures of the Consolidated Revenue Fund

**Figure 10 (cont'd)**

<b>Entities or Individuals Which Received in Excess of \$600,000</b>		
<b>Entity</b>	<b>2005</b>	<b>2006</b>
Dr. Thomas G. Hogan	564	633
Dr. Surender Singh Manhas	595	626
Dr. John McNicholas Professional	251	620
Dr. Tony Batten	560	608
Dr. James Sheridan Professional	540	601
Dr. Richard Harley Professional	247	600
Dr. Thomas J. Smith Professional	606	558
Dr. Renee R Van Der Lingen	612	492
Burin Peninsula Health Care Center	1,870	484
Carbonear General Hospital	1,288	385
Grenfell Regional Health Services Board	1,503	305
Labrador Health Services Board	1,348	280
Dr. Charles A. Boddie	625	247
Health Care Corporation of St. Johns	1,161	54
Peninsula Health Care	729	-
Payments \$600,000 and less to over 2000 entities or individuals (2005 - over 1,900 entities or individuals)	163,123	175,518
<b>Total</b>	<b>257,633</b>	<b>285,107</b>

Source: Government's Financial Information System

### Allowances and Assistance

Allowances and assistance expenditures include costs relating to such items as: allowances for Members of the House of Assembly, social assistance allowances paid to individuals, out of court settlements, and allowances paid on behalf of individuals to organizations. As indicated in Figure 1, payments for allowances and assistance totalled \$354 million for the year ended 31 March 2006. Figure 11 shows, by department, payments made for allowances and assistance for the year ended 31 March 2006 with comparative figures for the year ended 31 March 2005.

## Monitoring Expenditures of the Consolidated Revenue Fund

**Figure 11**

**Allowances and Assistance Expenditures  
By Department  
Years Ended 31 March  
(\$000's)**

<b>Allowances and Assistance</b>		
<b>Department</b>	<b>2005</b>	<b>2006</b>
Human Resources, Labour and Employment	221,010	218,482
Health and Community Services	116,777	117,682
Justice	1,864	6,970
Legislature	5,570	5,648
Education	(234)	4,604
Municipal Affairs	200	215
Finance	222	186
Transportation and Works	197	153
Government Services	59	59
Natural Resources	20	37
Executive Council	20	20
<b>Total</b>	<b>345,705</b>	<b>354,056</b>

Source: Government's Financial Information System

We also summarized the payments of allowances and assistance to show all entities which received payments in excess of \$500,000 for the year ended 31 March 2006 with comparative figures for the year ended 31 March 2005. These entities are listed in Figure 12.

## Monitoring Expenditures of the Consolidated Revenue Fund

**Figure 12**

**Allowances and Assistance Expenditures  
Payments in Excess of \$500,000  
Years Ended 31 March  
(\$000's)**

<b>Payments in Excess of \$500,000</b>		
<b>Entity</b>	<b>2005</b>	<b>2006</b>
xwave	106,053	106,212
Eastern Regional Integrated Health Authority	-	3,320
Roebothan, McKay, Marshall (In Trust)	21	2,430
Structured Settlements Group Inc.	-	2,000
Minister of Finance (Ontario)	1,781	1,983
Medical Services Insurance	1,308	1,213
Vera Perlin Society	390	1,062
Country Ribbon Inc.	-	1,000
Minister of Finance for Alberta	776	890
Bay St. George Community Employment Corporation	696	720
The Salvation Army - Wiseman Centre	775	597
Memorial University of Newfoundland	504	487
Association of New Canadians	764	460
Health Care Corporation of St. Johns	2,814	239
Moores Funeral Home & Ambulance	538	32
Fewer Ambulance Service	589	3
Freaks Ambulance Service	573	-
Miscellaneous amounts \$500,000 and less paid to over 3,400 entities or individuals (2005 - over 2,900 entities or individuals)	228,123	231,408
<b>Total</b>	<b>345,705</b>	<b>354,056</b>

Source: Government's Financial Information System

**Transportation and Communications**

Transportation and communications expenditures include costs relating to such items as: postage, freight, ambulance and air services, telecommunication services and travel for ministers, government employees and others. As indicated in Figure 1, payments for transportation and communications totalled \$35 million for the year ended 31 March 2006. Figure 13 shows, by department, payments made for transportation and communications for the year ended 31 March 2006 with comparative figures for the year ended 31 March 2005.

**Figure 13**

**Transportation and Communications  
Expenditures By Department  
Years Ended 31 March  
(\$000's)**

<b>Transportation and Communications</b>		
<b>Department</b>	<b>2005</b>	<b>2006</b>
Transportation and Works	5,735	6,656
Natural Resources	5,787	5,356
Executive Council	1,320	3,746
Justice	3,256	3,626
Education	2,545	2,624
Environment and Conservation	2,265	2,591
Government Services	2,190	2,308
Human Resources, Labour and Employment	2,111	2,165
Health and Community Services	1,177	1,453
Tourism, Culture and Recreation	1,264	1,273
Innovation, Trade and Rural Development	935	1,060
Fisheries and Aquaculture	771	1,013
Municipal Affairs	593	731
Finance	500	624
Legislature	522	591
Labrador and Aboriginal Affairs	390	417
Public Service Commission	67	240
Business	4	50
Consolidated Fund Services	1	-
Accrual adjustment for acquisition of tangible capital assets	(538)	(1,179)
<b>Total</b>	<b>30,895</b>	<b>35,345</b>

Source: Government's Financial Information System

## Monitoring Expenditures of the Consolidated Revenue Fund

We also summarized the payments for transportation and communications to show all entities which received payments in excess of \$100,000 for the year ended 31 March 2006 with comparative figures for the year ended 31 March 2005. These entities are listed in Figure 14.

**Figure 14**

**Transportation and Communications  
Expenditures  
Payments in Excess of \$100,000  
Years Ended 31 March  
(\$000's)**

<b>Entities Which Received in Excess of \$100,000</b>		
<b>Entity</b>	<b>2005</b>	<b>2006</b>
Universal Helicopters Nfld. Ltd	2,719	3,330
Postage by Phone	2,264	2,374
Aliant Communications Inc.	970	2,207
GT Group Telecom Services Corporation	2,496	2,012
xwave Solutions	27	1,655
Sprint Canada Inc.	661	1,106
Aliant Mobility Limited	925	1,055
Canada Post Corporation	865	905
Labrador Marine	807	806
Provincial Airlines Limited	452	543
Harvey's Travel	212	490
City of St. John's	193	459
Newfoundland Helicopters Limited	533	447
Newfoundland and Labrador Hydro	373	372
Canadian Helicopters Limited	558	367
Legrow's Travel	158	279
Supermarine Aircraft	884	271
Millenium Express	77	124
Newfoundland and Labrador Air Transport Ltd.	235	108
Sameday Right-O-Way	85	106



## Monitoring Expenditures of the Consolidated Revenue Fund

Figure 14 (cont'd)

<b>Entities Which Received in Excess of \$100,000</b>		
<b>Entity</b>	<b>2005</b>	<b>2006</b>
Globalstar Canada Satellite Company	110	105
Exploits Valley Air Services	2	105
Air Labrador	153	88
Newfoundland Telephone Company (Contract)	1,532	-
Miscellaneous amounts \$100,000 and less paid to over 7,000 entities or individuals (2005 - 6,400 entities or individuals)	13,604	16,031
<b>Total</b>	<b>30,895</b>	<b>35,345</b>

Source: Government's Financial Information System

---

## Monitoring Expenditures of the Consolidated Revenue Fund

---



## Highlights

Highlights of a review of the Newfoundland Government Fund Limited (NGF) comprising of an examination of all investor and financial transactions to December 2006.

### Why our Office Did this Review

We undertook a review of the Newfoundland Government Fund Limited to determine: (1) if investor funds in escrow are being closed on a timely basis and invested in eligible projects within the required 9 months; (2) if investment activity since our last review in 2000 has complied with the *Immigration Act* (Canada), *Immigration Regulations, 1978* and the Confidential Offering Memorandum; and (3) if investments are being appropriately managed for the benefit of the Fund and its investors.

### What our Office Recommends

Our office recommends that the Board of Directors of the Newfoundland Government Fund Limited should, in collaboration with legal counsel, review all available legal and other options to the extent possible to recover its investments or secure its assets.

We also recommend that the Board:

- approve all changes in interest rates paid to investors;
- resolve the remaining compliance issues relating to the *Immigration Regulations, 1978*;
- decide on the appropriate course of action with respect to the investors still in escrow;
- comply with Treasury Board direction; and
- complete a cash flow analysis to the date (15 December 2008) the last investor will be repaid.

### What the Board Said

To provide balance to this report and to ensure full disclosure, the Board was asked to formulate a response to our findings and conclusions. The Board's response, verbatim, is included at the end of this report. Readers are encouraged to consider the Board's comments in this regard.



To view the full report, refer to the web site [www.gov.nl.ca/ag/reports.htm](http://www.gov.nl.ca/ag/reports.htm). For more information, contact Nina Goudie, Director of Information Resources, 709-729-2346 or [ninagoudie@gov.nl.ca](mailto:ninagoudie@gov.nl.ca).

### Chapter 2, Part 2.8

#### NEWFOUNDLAND GOVERNMENT FUND LIMITED

The Newfoundland Government Fund Limited (NGF) was incorporated on 10 November 1995 under the *Corporations Act* of Newfoundland and Labrador. The Fund is a Government-administered venture capital fund under the *Immigration Act* (Canada) and *Immigration Regulations, 1978* (the *Regulations*). Under the Canadian Immigrant Investor Program (Program), NGF raises funds from immigrant investors in order to provide loan and equity capital to establish, expand, purchase, maintain or revitalize businesses or commercial ventures in Newfoundland and Labrador. By investing in NGF, the immigrant investors, earn a nominal return on their capital and help satisfy a portion of their visa requirements under the Program.

#### What We Found

NGF invested the majority of its investment funds (\$14.13 million) in two major projects: (i) construction of a hospital in Bonne Bay (\$9.4 million), the first advance of which was made in November 1999; and (ii) construction of a school in Lawn (\$4.73 million), the first advance of which was made in September 2002. These investments represented approximately 70% of the proceeds from the COM for 81 investors. Under the *Regulations* the money is to be invested for a minimum of 5 years.

##### (a) Serious concerns with management and administration of the projects

We identified serious concerns with the management and administration of the Bonne Bay hospital project (invested with Hospital Leasing Services Inc.), and the Lawn school project (invested with School Leasing Services Inc.) which have led to an estimated loss to NGF of \$1.449 million.

Hospital Leasing Services Inc. was to repay a \$9.4 million loan to NGF within 5 years (i.e. 19 December 2005). However, on 29 November 2004 Hospital Leasing Services Inc. defaulted on its initial \$5 million payment to NGF. At that point, the company had transferred most of the accumulated surplus cash (approximately \$829,000) to Marco Services Limited, a related company of Hospital Leasing Services Inc., without the approval of NGF. NGF never requested audited financial statements until after the company had defaulted on the loan. The financial statements would have shown construction costs of \$10.124 million, \$724,000 in excess of the authorized cost. This \$724,000 and interest of \$105,000 comprised the \$829,000 that was transferred to Marco Services Limited.

School Leasing Services Inc. is to repay a \$4.73 million loan to NGF within 5 years (i.e. 6 September 2007). As of 30 April 2006, School Leasing Services Inc. has transferred \$485,000 of accumulated cash to Marco Services Limited as partial settlement of the \$675,000 payable related to increased construction costs, without the approval of NGF. The \$190,000 balance owing to Marco Services Limited is reported in School Leasing Services Inc.'s financial statements for the year ended 30 April 2006.

##### (b) Investors in escrow for as long as 8 years

Because NGF has had considerable difficulty in identifying eligible projects to invest in, 11 of the 92 total investors have remained in the escrow account for up to 8 years.

##### (c) Non-compliance with the *Regulations*

Immigrant investor funds such as NGF must comply with the *Regulations* under the *Act*. Our review indicated instances of non-compliance with the *Regulations* such as: 74 units were not invested in eligible businesses within 9 months of being closed from the escrow account. To compensate, NGF increased the interest for the investors. The total estimated cost of this penalty interest is \$1,027,000.

##### (d) Treasury board direction

The direction from Treasury Board dated 19 April 2005 was not complied with.

## Introduction

---

### Incorporation

The Newfoundland Government Fund Limited (NGF) was incorporated on 10 November 1995 under the *Corporations Act* of Newfoundland and Labrador. Ministers of the Crown hold shares on behalf of the Province and elect a Board of Directors to govern NGF's affairs.

---

### Fund administration and mandate

The Fund is a Government-administered venture capital fund under the *Immigration Act* (Canada) and Regulations.

Under the Canadian Immigrant Investor Program, NGF issued a Confidential Offering Memorandum in September 1996 to raise funds from immigrant investors in order to provide loan and equity capital to establish, expand, purchase, maintain or revitalize businesses or commercial ventures in Newfoundland and Labrador.

By investing in NGF, the immigrant investors, in addition to earning a nominal return on their capital, helped satisfy a portion of their visa requirements under Canada's Immigrant Investor Program.

---

### Confidential Offering Memorandum

The Confidential Offering Memorandum stated the following guidelines for the Fund:

- It would be comprised of a number of units (limited to a minimum of 14 units (\$3,500,000) and a maximum of 140 units (\$35,000,000)), each representing a \$250,000 promissory note bearing interest at 2% per annum.
- Proceeds from the sale of units must be held in an escrow account for a minimum period (21 days after the final investor) and, within 9 months of being released to NGF, 70% must be invested in 2 or more eligible projects for a minimum of 5 years.
- Under the Canadian *Immigration Regulations, 1978* under the *Immigration Act* (Canada), an eligible business is a Canadian controlled business ordinarily resident in Canada having total assets, including associated companies, not exceeding \$35 million. Eligible investments are those invested in the active business operations of an eligible business operating in the Province. Furthermore, individual investments cannot exceed \$35 million.

- The promissory note must be repaid in full, 5 years from the date on which 70% of the investor proceeds were invested in an eligible project.
  - Proceeds shall be refunded in full upon refusal of an investor's Canadian visa application.
  - Neither the Government of Canada nor the Government of Newfoundland and Labrador will offer any guarantees or assurances of a return on an investor's original investment and will not be liable for any loss or damages suffered by any investor as a result of the investment.
- 

**Financial strategy**

The basic financial strategy behind the NGF immigrant investor fund is that:

- The Fund uses 100% of the money received from investors as follows:
    - 70% is invested in eligible projects to earn a simple interest rate of 5%.
    - 20% is invested in a bank deposit account for the purpose of refunding those investors whose visa applications are rejected. The account would earn interest equal to or higher than that paid to investors (i.e. 2%).
    - 10% is used to pay administrative costs such as marketing, distribution, monthly reporting, liaison fees and other administrative costs.
  - The 3% spread represented by the difference between the required 5% interest on eligible projects less the 2% interest paid to investors on their investments is used to recover administrative costs.
- 

**Current status**

The offering expired on 30 June 1998 and Citizenship and Immigration Canada required the NGF to finalize its investor listing to the maximum offering of 140 units. Figure 1 provides information on the status of the 140 investor units as at 31 March 2006.

---

Figure 1

**Status of Investors  
31 March 2006**

Status of Investor Units	Number of units	Proceeds held by Fund	Proceeds paid back to investors	Unit deposits held by escrow agent	Total potential subscription proceeds
Total available units	140	\$ -	\$ -	\$ -	\$ -
Inactive units (14 refunded, 3 forfeited and 31 withdrawn)	(48)	-	-	-	-
<b>Total available units</b>	<b>92</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
Total units invested <sup>1</sup>	81	\$20,250,000	-	-	\$20,250,000
Units with full subscription proceeds awaiting approval for closure and release of proceeds from escrow	11	-	-	2,750,000	2,750,000
<b>Total available active units</b>	<b>92</b>	<b>\$20,250,000</b>	<b>-</b>	<b>\$2,750,000</b>	<b>\$23,000,000</b>
Unit proceeds repaid to investors with commitments completed	(49)	-	(12,250,000)	-	(12,250,000)
Unit proceeds repaid to investors with commitments not completed <sup>2</sup>	(2)	-	(500,000)	-	(500,000)
<b>Remaining active units</b>	<b>41</b>	<b>\$20,250,000</b>	<b>\$(12,750,000)</b>	<b>\$2,750,000</b>	<b>\$10,250,000</b>

Source: Escrow Agent - Investor Listing 31 March 2006

1: NGF is required to invest 70% of Subscription Proceeds in eligible businesses

2: Subscription proceeds not invested for the required 5-year term

NGF officials advise that there has been no change in the status of investor units during the period 1 April 2006 to 31 December 2006.

**Active Units**

The 41 total active units noted in Figure 1 include:

- 11 units in the escrow account that are ready for closing and investment in eligible projects;
- 3 units invested in a hospital in Bonne Bay; and
- 27 units invested in a school in Lawn.

## Audit Objectives and Scope

---

### Objectives

The objectives of our review were to:

- Determine if investor funds in escrow are being closed on a timely basis and invested in eligible projects within the required 9 months;
  - Determine if investment activity since our last review in 2000 has complied with the *Immigration Act (Canada)*, *Immigration Regulations, 1978* and the Confidential Offering Memorandum; and
  - Determine if investments are being appropriately managed for the benefit of the Fund and its investors.
- 

### Scope

We completed our review of NGF in December 2006 by examining all investor and financial transactions since our last review, which was carried out in November 2000.

---

## Conclusions

---

### Poor management and problems with project developers have resulted in losses to NGF and non-compliance with authorities

Overall, our review identified serious concerns with the management and administration of NGF. We found that poor management practices and problems with project developers have led to an estimated loss to NGF of \$1.449 million on two investment projects (\$625,000 relating to the Bonne Bay hospital project and \$824,000 relating to the Lawn school project), undue delays of up to 8 years in investing monies from immigrants, additional costs resulting from penalty interest payments to investors, and instances of non-compliance with the *Immigration Act (Canada)* and *Immigration Regulations, 1978* and with Treasury Board direction.

We reviewed three areas of NGF's operations:

1. Management and administration
2. Investment timeliness
3. Compliance with authorities

**Serious concerns with management and administration of projects**

---

**1. Management and administration**

We identified serious concerns with the management and administration of the Bonne Bay hospital project (invested with Hospital Leasing Services Inc.), the first monies of which were advanced on 29 November 1999, and the Lawn school project (invested with School Leasing Services Inc.), the first monies of which were advanced on 6 September 2002.

By way of background, both Hospital Leasing Services Inc. and School Leasing Services Inc. are owned by the same individual. As well, Marco Services Limited, the company that built the Bonne Bay hospital and the Lawn school, is a related company of Hospital Leasing Services Inc. and School Leasing Services Inc.. As such, there would be revenues and profit for all three related companies resulting from NGF's investment in these projects.

We noted the following issues during our review:

*Hospital Leasing Services Inc.*

- Hospital Leasing Services Inc. was to repay a \$9.4 million loan to NGF within 5 years (i.e. 19 December 2005). However, on 29 November 2004 Hospital Leasing Services Inc. defaulted on its initial \$5 million payment to NGF. At that point, the company had transferred most of the accumulated surplus cash (approximately \$829,000) to Marco Services Limited, a related company of Hospital Leasing Services Inc.. This accumulated surplus was the difference between the annual lease payments of \$761,000 reduced by 5% interest payable to NGF and specified operating expenses. The loan agreement between NGF and the company obviously did not consider that the company would transfer funds in this manner and therefore, there was no clause in the agreement to preclude the company from doing what it did.



- Although the loan agreement gave NGF the right to request audited financial statements from Hospital Leasing Services Inc., NGF never exercised this right until after the company had defaulted on the initial \$5 million payment. Had the financial statements been obtained and reviewed, it would have been apparent to NGF that monies were being transferred and that the construction costs of \$9.4 million approved by NGF had been exceeded and totalled \$10.124 million. It would also have been obvious that the company was not economically viable and that bankruptcy was likely. It is noted that the hospital was constructed by Marco Services Limited.
- Although Hospital Leasing Services Inc. defaulted on its loan payment in November 2004, Government did not invoke bankruptcy until May 2005. As a result, \$239,000 of payments to Marco Services Limited cannot be challenged under Sections 91, 95 and 96 of the *Bankruptcy and Insolvency Act* as they were made more than one year prior to the formal bankruptcy. Of the additional \$205,000 paid to Marco Services Limited which were eligible to be challenged, NGF ultimately received only approximately \$86,000.
- It is difficult to understand, given the significant issues facing NGF, why there were no formal meetings of the Board. At the time of our review in December 2006, no meetings had been held since December 2004, some two years prior. That meeting was held to discuss the \$5 million defaulted payment (due 29 November 2004) by Hospital Leasing Services Inc. relating to the Bonne Bay hospital project.
- Correspondence from the trustee in bankruptcy indicates that the loss to NGF resulting from the investment in the Bonne Bay hospital project will be approximately \$625,000.

*School Leasing Services Inc.*

- School Leasing Services Inc. is to repay a \$4.73 million loan to NGF within 5 years (i.e. 6 September 2007). The \$4.73 million repayment is to be funded by a \$4.048 million payout option from the former Newfoundland and Labrador Education Investment Corporation and annual lease payments of approximately \$383,000 reduced by 5% interest payable to NGF and specified operating expenses. It was expected that the difference which results in accumulated cash would be available to the company for expenditures and to pay its loan to NGF.

As in the Bonne Bay hospital project, the company recorded construction costs in excess of what was approved by NGF. In this case, \$4.73 million was approved by NGF while \$5.405 million was recorded in the financial statements of School Leasing Services Inc. resulting in \$675,000 payable to Marco Services Limited, a related company of School Leasing Services Inc..

As a result, as of 30 April 2006, School Leasing Services Inc. has transferred \$485,000 of accumulated cash to Marco Services Limited as partial settlement of the \$675,000 payable related to increased construction costs. The \$190,000 balance owing to Marco Services Limited is reported in School Leasing Services Inc.'s financial statements for the year ended 30 April 2006.

The loan agreement between NGF and the company obviously did not consider that the company would transfer funds in this manner and therefore, there is no clause in the agreement to preclude the company from doing this.

- NGF officials made a mistake when calculating minimum lease payments. If the lease remains in effect subsequent to the first repayment date (i.e. 6 September 2007), the error will result in an estimated loss to School Leasing Services Inc. of \$141,000 relating to the Lawn school project. This estimate was made by the trustee in bankruptcy appointed by NGF for the Bonne Bay hospital project.
- The estimated eventual loss to NGF resulting from the investment in the Lawn school project is \$634,000. However, this estimated loss could reach \$824,000 if School Leasing Services Inc. settles the \$190,000 payable to Marco Services Limited as recorded on its 30 April 2006 financial statements.

Investors in  
escrow for as  
long as 8 years

## 2. Investment timeliness

Because NGF has had considerable difficulty in identifying eligible projects to invest in, 11 of the 92 total investors have remained in the escrow account for up to 8 years. As a result:

- One investor will have waited up to 13 years to obtain the required 5 year investment necessary to complete their visa requirements.

- The missed opportunities to fund projects in the Province means the Fund is not generating interest revenue originally anticipated.
- Significant expenses (estimated by the escrow agent to total between \$150,000 and \$350,000) may be incurred by NGF if they exercise the option to move the 11 investors to the new Federal Immigrant Investor Program.

**Penalty interest expense of \$1.027 Million**

NGF did not invest all funds from investors into eligible projects within 9 months from the date transferred from the escrow account as required by the Confidential Offering Memorandum. As a result, on 15 September 1999 the NGF Board approved an enhanced interest rate of 5% rather than the required 2% interest in the Confidential Offering Memorandum for 54 investors in the Bonne Bay hospital project. Although this authority was limited to the investors in that project, it has been extended to 17 of the 27 investors in the Lawn school project. Officials advise it will also be extended to 3 of the remaining 10 investors in that project whose funds were not invested within 9 months from the date transferred from the escrow account.

The total estimated cost of this penalty interest is \$1,027,000, with \$267,000 of this amount relating to the Lawn school project not having been authorized by the NGF Board.

**Issues of non-compliance with the Canadian Immigration Regulations, 1978 and with Treasury Board direction**

**3. Compliance with authorities**

Immigrant investor funds such as NGF must comply with the Canadian *Immigration Regulations, 1978* under the *Immigration Act* (Canada). Our review indicated instances of non-compliance with the *Immigration Regulations, 1978* as follows:

- 74 units were not invested in eligible businesses within 9 months of being closed from the escrow account (e.g. 12 units were not invested until 29 months later).
- 3 units relating to the Bonne Bay hospital project were not invested for the required minimum 5-year period (invested for only 46 months).

- Audited financial statements were not submitted to Citizenship and Immigration Canada within 140 days (20 May) of the company year-end for 31 December 2001, 2004 and 2005. In fact, as of 31 December 2006, the financial statements for 31 December 2004 had not been finalized and financial statements for 31 December 2005 had not been prepared.

Furthermore, the following may result in a further non-compliance once a final determination has been made:

- The Bonne Bay hospital project has been placed in bankruptcy and NGF officials cannot be certain if it still qualifies as an investment in an eligible business.
- 3 units for the Bonne Bay hospital project may not have been invested for the required minimum 5-year period given that new investors were brought in after several years to replace the original investors who were required to be refunded as a result of their visa rejection.
- 1 unit for Lawn has its minimum 5-year period ending 15 December 2008; however, the project will be completed 6 September 2007.

The direction from Treasury Board dated 19 April 2005 was not complied with in that the following information has not been provided:

- The Department of Finance was to advise Executive Council as soon as it had determined whether or not NGF will incur a shortfall between the amount needed to repay immigrant investors and the proceeds from the sale of the Bonne Bay hospital.
  - NGF was directed to consult with Citizenship and Immigration Canada and obtain a legal opinion as to NGF's liability to those investor units still in escrow and report back to Treasury Board before taking any action that may incur additional costs.
-

## Findings and Recommendations

---

### 1. Management and administration

---

#### Description

*Two major investments:  
Bonne Bay hospital and  
Lawn school*

NGF invested the majority of its investment funds (\$14.13 million) in two major projects that were approved by the NGF Board of Directors, Treasury Board and Citizenship and Immigration Canada as follows:

- Construction of a hospital in Bonne Bay (\$9.4 million) approved in September 1999; and
- Construction of a school in Lawn (\$4.73 million) approved in August 2002.

The total investment of \$14.13 million represented approximately 70% of the proceeds from the Confidential Offering Memorandum for 81 investors. Under *Immigration Regulations, 1978* the money is to be invested for a minimum of five years.

#### *Project developers*

Two companies - Hospital Leasing Services Inc. and School Leasing Services Inc. - were selected to develop the projects in Bonne Bay and Lawn as a result of public tenders. The tender specifications required bidders to:

- Tender a fixed price for the construction of the buildings;
- Enter into a 20-year operating lease with the users of the properties (at the end of the construction period);
- Pay simple interest to the NGF at the rate of 5% per annum on all funds advanced to the project; and
- Repay the funds five years from the date of investment.

By way of background, Hospital Leasing Services Inc. and School Leasing Services Inc. are owned by the same individual. As well, Marco Services Limited, the company that built the Bonne Bay hospital and the Lawn school, is a related company of Hospital Leasing Services Inc. and School Leasing Services Inc.. As such, there would be revenues and profit for all three related companies resulting from NGF's investment in these projects.

*Repayment plan*

In order to repay the funds invested by NGF at the five-year repayment date, the developers would have to replace the NGF financing with commercial or other refinancing for the remainder of the lease period (on both projects). Otherwise, the lessee would have to exercise its option to purchase the property after the loans from the NGF had been repaid.

We examined in detail NGF's investment in the:

- A. Bonne Bay hospital project; and
- B. Lawn school project.

**Investment details**

*\$9.4 million invested by NGF*

**A. Bonne Bay hospital**

In September 2000, as a result of a public tender process, Hospital Leasing Services Inc. was selected to build, own and lease a hospital in Bonne Bay. The construction cost included in the accepted tender was \$8.9 million; however, costs increased to \$9.4 million as a result of extra work approved by NGF. The Department of Transportation and Works oversaw the construction of the hospital and approved all payments. Figure 2 shows the details of funds advanced to the project.

**Figure 2**

**Summary of Bonne Bay Investments**

Advance	Advance Date	Advance Repayment Date	Investors Repayment Date	# Investors	Advance Amount
# 1	29 Nov 99	29 Nov 04	30 Nov 04	29	\$5,000,000
# 2	19 Dec 00	19 Dec 05	19 Dec 05	22	3,888,000
# 3	11 Feb 02	19 Dec 05	11 Feb 07	3	512,000
<b>Total</b>				<b>54</b>	<b>\$9,400,000</b>

Source: NGF records

**Lease details**

*20-year lease  
with NGF  
investment  
returned by  
December 2005*

The operating lease between Hospital Leasing Services Inc. and the predecessor to the Western Regional Integrated Health Authority (the Authority) came into effect 26 November 2001. The lease:

- Covered the 20-year period from 26 November 2001 to 25 November 2021;
- Provided for lease payments of \$760,920 per year plus HST;
- Stated that all operating and maintenance costs except for insurance on the facility were the responsibility of the Authority. The insurance was the responsibility of Hospital Leasing Services Inc.;
- Included an option for the Authority to purchase the facility at its depreciated value of approximately \$8.45 million after the \$9.4 million in advances had been repaid to NGF on 19 December 2005; and
- Included another option for the Authority to purchase the facility at the end of the 20-year term for 60% of the \$9.4 cost (\$5.64 million).

It was expected that the difference between the lease payments totalling approximately \$761,000 annually reduced by 5% interest payable to NGF and specified operating expenses would result in accumulated cash that would be available to the company for expenditures and to pay its loan to NGF.

---

**Investment loss**

*Hospital Leasing  
Services Inc.  
unable to repay  
first advance;  
subsequently  
went into  
bankruptcy*

As noted in Figure 2, the first advance in the amount of \$5.0 million was due for repayment 29 November 2004. This was not paid when due and the following occurred:

- Pursuant to the Loan Agreement, on 1 December 2004 NGF gave notice to Hospital Leasing Service Inc. to pay the amount due within 15 days;
- Legal counsel for Hospital Leasing Services Inc. advised NGF on 17 December 2004 that no other lender was willing to extend financing;
- NGF issued a Notice of Demand on 20 December 2004 to the Authority to forward all lease payments directly to NGF;

- NGF appointed a receiver for Hospital Leasing Services Inc. on 4 January 2005; and
  - A receiving order was petitioned on 30 May 2005 and issued against Hospital Leasing Services Inc. on 21 June 2005, which placed the company in bankruptcy.
- 

*Western  
Integrated  
Regional Health  
Authority  
decides to  
purchase*

In a letter dated 16 May 2005, the Authority advised the Receiver that they:

- Were exercising their option to purchase the leased lands and premises per Section 6(1) of the operating lease;
  - Were aware that the actual purchase could not be concluded until all loans had been repaid to NGF on 19 December 2005; and
  - Intended to make a \$5.0 million advance payment (received 26 May 2005) on the option purchase price.
- 

*Loss: \$624,580*

The final option purchase payment of \$3,444,490 for the Bonne Bay project was made 19 December 2005. The loss to NGF is expected to be \$624,580.

Furthermore, we noted that, although the Authority had made an advance payment of \$5.0 million on the option purchase price, the monthly lease payments were not reduced nor did they charge interest on the advance payment.

If this had occurred, the loss would have increased. For example, if 5% interest had been charged on the advance from the date received (26 May 2005) to the date the option payment was due (19 December 2005) the loss of \$624,580 would have increased to approximately \$767,000.

---



### *How the loss occurred*

A review of NGF records and discussion with officials indicated that the financial organization of the Bonne Bay project was based on the following assumptions:

- The final approved construction cost would be \$9.4 million;
- 100% financing would be obtained from NGF;
- Lease and option purchase payments would generate more than enough revenue after expenses to repay the \$9.4 million loan from NGF; and
- Excess cash generated would remain with Hospital Leasing Services Inc. until other lenders refinanced the project or the lessee exercised the option to purchase.

What actually happened:

- Hospital Leasing Services Inc. recorded project costs in its financial statements of \$10.124 million, or \$724,000 more than the approved price;
- Rather than retain excess cash from leasing operations to pay off debt, Hospital Leasing Services Inc. transferred \$829,072 (\$724,000 unapproved construction costs plus interest of \$105,072) to Marco Services Limited. NGF did not approve the transfers and the loan agreement between NGF and Hospital Leasing Services Inc. did not have adequate security provisions to prevent the transfers.
- Although the loan agreement gave NGF the right to request audited financial statements from Hospital Leasing Services Inc., NGF never exercised this right until after the company had defaulted on the initial \$5 million payment. Had the financial statements been obtained and reviewed, it would have been apparent to NGF that monies were being transferred and that the construction costs of \$9.4 million approved by NGF had been exceeded and totalled \$10.124 million. It would also have been obvious that the company was not economically viable and that bankruptcy was likely.

We also noted during our review that on 30 November 2004, \$20,000 was paid to the legal counsel for Hospital Leasing Services Inc. as a retainer to cover anticipated legal costs associated with any action that NGF may bring against the company or its director. Subsequently, the trustee in bankruptcy negotiated the recovery of \$10,000 of this retainer.

As a result, the \$8.45 million proceeds from the Authority's decision to exercise the purchase option, and the cash remaining in Hospital Leasing Services Inc. were not adequate to repay the amount owed to NGF.

**Current status**

*Investor re-payment*

NGF's investment in the Bonne Bay hospital project used funds from 54 individual investors. Twenty-nine of these had promissory notes dated 30 November 2004 and were repaid their full investment of \$7.25 million (\$250,000 each) plus accrued interest of \$178,767 on 30 May 2005. Twenty-two of the remaining investors had promissory notes dated 19 December 2005 and were also repaid their full investment of \$5.5 million on 19 December 2005. The remaining three investors have not been paid as they have not completed the required five-year investment period.

*Attempts being made to recover funds*

*NGF re-payment*

Legal counsel for the trustee in bankruptcy has reviewed Hospital Leasing Services Inc.'s payments made in the year prior to the default of the payment (29 November 2004).

In relation to Sections 91, 95 and 96 of the *Bankruptcy and Insolvency Act*, it was determined that payments made to a related party in the year prior by the enterprise being petitioned into bankruptcy (30 May 2004 to 21 June 2005) could be challenged to determine if there was any fraudulent preference or there was a settlement given to one creditor over the other. If fraudulent preference or a settlement was found, these payments could be voided and funds returned to the trustee in bankruptcy.

Figure 3 shows that 4 of the 6 payments made during the year prior to the default of the payment (29 November 2004) totalling \$239,418, are no longer eligible for challenge under Sections 91, 95 and 96 of the *Bankruptcy and Insolvency Act*. If bankruptcy had been invoked closer to when the company defaulted on its loan payment in November 2004, more of the questionable payments could have been challenged.

**Figure 3**

**Hospital Leasing Services Inc.  
Payments To Marco Services Limited**

#	Payment Date	Amount
1	2 January 2004	\$ 40,000
2	26 January 2004	80,000
3	2 March 2004	44,418
4	29 March 2004	75,000
	<b>Payments no longer under review</b>	<b>239,418</b>
5	2 June 2004	75,000
6	30 June 2004 (note 1)	130,072
	<b>Payments under review</b>	<b>205,072</b>
	<b>Total</b>	<b>\$ 444,490</b>

Source: NGF and trustee in bankruptcy records.  
Note 1 includes \$105,072.28 interest payments to Marco Services Limited.

Figure 3 shows that \$205,072 of the total of \$444,490 paid to Marco Services Limited was reviewed and challenged by legal counsel for the trustee in bankruptcy. On 16 November 2006, a settlement of \$140,000 was reached with Marco Services Limited. NGF ultimately received approximately \$86,000. Correspondence from the trustee indicates that the total loss to NGF relating to Hospital Leasing Services Inc. will be \$624,580.

*NGF Board not meeting to resolve issues*

*Board meetings*

Although many of the day-to-day decisions related to the Bonne Bay and Lawn projects are made by NGF officials, there have been no formal meetings of the Board since December 2004, some two years ago, to address the significant issues facing the company.

**Investment details**

*\$4.73 million invested by NGF*

**B. Lawn School**

In August 2002, as a result of a public tender process, School Leasing Services Inc. was selected to build, own and lease a school in Lawn. The construction cost stated in the accepted tender was \$4.625 million; however, costs increased to \$4.73 million as a result of extra work approved by NGF. The Department of Transportation and Works oversaw the construction of the school and approved all payments. Figure 4 shows the details of funds advanced to the project.

**Figure 4**

**Summary of Lawn Investments**

Advance	Advance Date	Advance Repayment Date	Investors Repayment Date	# Investors	Advance Amount
# 1	06 Sept 02	06 Sept 07	06 Sept 07	26	\$4,625,000
# 2	15 Dec 03	06 Sept 07	15 Dec 08	1	105,000
<b>Total</b>				<b>27</b>	<b>\$4,730,000</b>

Source: NGF records

**Lease details**

*20-year lease with NGF investment returned by September 2007*

The operating lease between School Leasing Services Inc. and the former Newfoundland and Labrador Education Investment Corporation (the Corporation), came into effect 25 May 2003. The lease:

- Covered the 20-year period from 25 May 2003 to 24 May 2023;
- Provided for lease payments of \$382,889 per year plus HST;
- Stated that all operating and maintenance costs except for insurance on the facility were the responsibility of the Corporation. The insurance was the responsibility of School Leasing Services Inc.;
- Included an option for the Corporation to purchase the facility at its depreciated value of approximately \$4.048 million after the \$4.73 million investment is repaid to NGF on 6 September 2007; and

- Included an option for the Corporation to purchase the facility at the end of the 20-year term for 60% of the \$4.73 cost (\$2.838 million).

It was expected that the difference between the lease payments totalling approximately \$383,000 annually reduced by 5% interest payable to NGF and specified operating expenses would result in accumulated cash that would be available to the company for expenditures and to pay its loan to NGF.

A review of the financial statements of School Leasing Services Inc. as at 30 April 2006 indicated that:

- Project costs of \$5.405 million had been recorded in the financial statements. This amount was approximately \$675,000 more than that approved by NGF. Of particular note is that the school was constructed by Marco Services Limited, a company related to School Leasing Services Inc..
- As of 30 April 2006 the company had paid \$485,000 to Marco Services Limited leaving a balance of \$190,000 which was recorded in the company's financial statements as an amount owing to Marco Services Limited.

---

**Investment loss**

*Potential loss of  
\$633,760 to \$823,760*

A cash flow analysis prepared by the trustee in bankruptcy for Hospital Leasing Services Inc. to 6 September 2007, the maturity date of the NGF investment:

- Projects a loss of \$633,760. This loss will be due mainly to \$485,000 paid to Marco Services Limited related to increased construction costs and insufficient lease payments of \$141,000 resulting from a calculation error in the original lease; and
  - Indicates that this loss could increase by \$190,000 for a total of \$823,760 if School Leasing Services Inc. has sufficient funds to pay the outstanding amount to Marco Services Limited before the debt to NGF is due.
-

**Current status**

NGF officials advise that their legal counsel has reviewed the project security arrangements to determine if they can intercede, under the loan agreement, to prevent the payment of unapproved amounts to Marco Services Limited. Legal opinions have been received but at the time of our review a decision has still not been made as to a course of action. There have been no formal meetings of the NGF Board since December 2004, some two years ago.

*Funds inadequate to repay investors*

**C. Corporate financial viability**

The NGF draft unaudited financial statements for the year ended 31 December 2004 indicated a loss for the year of \$373,911 and an accumulated surplus of \$443,870. Figure 5 provides an estimate of the potential cash deficit at 31 December 2004.

**Figure 5**

**Estimated Accumulated Deficit as at 31 December 2004**

Statement Item	Amount
Accumulated Surplus	\$ 443,870
Estimated loss on Hospital Leasing Services Inc.	(624,580)
Estimated loss on School Leasing Services Inc.	(823,760)
Deferred financing cost (not a cash related asset)	(454,515)
<b>Estimated Accumulated Deficit</b>	<b>(\$1,458,985)</b>

Source: NGF draft financial statements and records

The estimated accumulated deficit in Figure 5:

- Assumes that School Leasing Services Inc. will pay money owed to Marco Services Limited on the Lawn school project before repaying NGF loans;
- Does not provide for the potential cost of between \$150,000 and \$350,000 to transfer the remaining investors in the escrow account to the new Federal Immigrant Investor Program; and

- Does not include any estimates for interest earned, interest paid, fees, etc. incurred in the normal operations of NGF from 1 January 2005 as NGF has not completed a cash flow analysis to the date (15 December 2008) the last investor will be repaid.

*Investment repayment*

The Confidential Offering Memorandum states that neither the Government of Canada nor the Government of Newfoundland and Labrador offered any guarantees or assurances of a return on an investor's original investment and would not be liable for any loss or damages suffered by any investor as a result of their investment.

However, NGF established a precedent when 51 investors in the Bonne Bay hospital project were repaid their investment in full, even though there was a projected loss at that time of \$713,000 (which ended up being \$624,580) on the project. The shortfall for these investors had to be made up from other corporate sources that will eventually impact amounts available to repay other investors.

---

## 2. Investment timeliness

---

### Escrow Details

*Units held in escrow for extended periods*

*Time held in escrow*

The Confidential Offering Memorandum requires that proceeds from the sale of units be held in escrow until the closing date, at which time the minimum investment of \$250,000, less a 7% distribution and marketing fee, will be transferred to NGF. Our review of the 31 March 2006 Investor Listing provided by the Escrow Agent indicated that:

- 11 units in escrow are ready to be closed;
- Closing the accounts would result in \$2,557,500 being transferred to NGF and would provide \$1,925,000 to invest in eligible businesses; and
- The 11 investors have already received their visas and have been ready to be closed and invested as follows:
  - 1 unit since 1998,
  - 3 units since 1999,
  - 6 units since 2000, and
  - 1 unit since 2001.

It is noted that one of these investors (1 unit since 1998) will have waited up to 13 years (8 years to 2006 plus 5 years investment period) to obtain the required 5 year investment necessary to complete their visa requirements.

Although there is no limitation in the *Immigration Regulations, 1978* or the Confidential Offering Memorandum as to how long the investors' units can be kept in the escrow account, the Escrow Agent advises that the investors are expressing concerns that their minimum investment period has not started and are looking for their investments to be repaid.

---

*If investments moved to Federal program, costs high for NGF*

*Escrow account options*

Based on discussions with NGF officials and the Escrow Agent there appear to be several options available to resolve the situation with the remaining investors in escrow. These are:

- Locate an eligible project and close the units so that the investors' minimum investment periods can start; or
- Locate an eligible project, use another source of financing to repay the investors, and invest the original funds in the project. This would enable the investors to meet their minimum investment period; or
- Transfer the investors to the new Federal Immigrant Investor Program.

Because of the higher investment required by the new Federal Immigrant Investor Program, the Escrow Agent estimated it would cost NGF between \$150,000 and \$350,000 to move the 11 investors to that program.

---

*Increase in interest rates will have long-term financial impact on NGF and were not all approved by the NGF Board*

On 15 September 1999, as a result of delays in advancing funds to eligible businesses, the NGF Board decided to increase the interest rate paid to the 54 investors in the Bonne Bay hospital project. This resulted in these investors having their interest rates raised from 2% to 5% for the period extending beyond 5 years and 9 months from the date of closing.



Of the 27 investors in the Lawn school project, 20 were also not invested in an eligible project within 9 months from closing. NGF officials indicated that 17 of the 20 investors have been compensated at the higher 5% interest rate and that the remaining 3 investors will also be compensated at that rate. The increased interest rate for these investors has not been approved by the NGF Board.

Figure 6 shows the total estimated increased interest cost from beyond 5 years and 9 months to the date of repayment to the investors. These payments, totalling \$1,026,514 in penalty interest, will contribute significantly to NGF's eventual inability to meet its financial commitments.

**Figure 6**

**Estimated Interest Penalty Costs**

Repayment Date	# Investors	3% Interest Cost
<b>Bonne Bay</b>		
30 May 2005	29	\$ 437,076
19 December 2005	22	292,417
17 February 2007	3	29,712
	<b>54</b>	<b>759,205</b>
<b>Lawn</b>		
18 September 2007	20	267,308
Units Invested within 9 months	7	-
	<b>27</b>	<b>267,308</b>
<b>Total Interest Penalty</b>	<b>81</b>	<b>\$1,026,513</b>

Source: Estimated using HSBC Capital - Investor Listing 31 March 2006

**3. Compliance with authorities**

**Background**

Regulated by *Immigration Act* (Canada) and *Immigration Regulations, 1978*

**Federal Authorities**

As an approved Government-administered venture capital fund, NGF is required to comply with the Canadian *Immigration Regulations, 1978* under the *Immigration Act* (Canada) as well as its own Confidential Offering Memorandum.

Under the *Immigration Regulations, 1978*, the Minister of Citizenship and Immigration Canada may suspend the Fund's approval as a venture capital fund if the Fund does not comply with certain terms or conditions.

---

**Investment requirements**

With respect to investment funds, the *Immigration Regulations, 1978* require:

- 70% of the minimum \$250,000 investment proceeds under NGF's Confidential Offering Memorandum be invested in the active business operations of eligible businesses in the Province for a minimum of 5 years;
- Investment in the eligible business be made within 9 months from the date the funds are released from escrow; and
- Annual audited financial statements to be submitted to Citizenship and Immigration Canada within 140 days after the end of each financial year.

We examined NGF's compliance with the *Immigration Regulations, 1978* and reached conclusions on the following areas:

- A. Eligible businesses,
  - B. 9-month investment timeframe,
  - C. Minimum investment period, and
  - D. Reporting requirements.
- 

**A. Eligible businesses**

*Hospital Leasing Services may no longer be considered eligible*

Hospital Leasing Services Inc. was placed in receivership on 4 January 2005 and petitioned into bankruptcy on 21 June 2005. There is a question whether a company in bankruptcy still qualifies as an “active business” under the *Immigration Regulations, 1978*.

NGF officials indicated that they have not sought an opinion from Citizenship and Immigration Canada on this matter, and as a result they cannot be certain that the NGF is in compliance with the *Immigration Regulations, 1978* as to the minimum investment period. This is particularly important for the units invested in Hospital Leasing Services Inc. which were repaid on 19 December 2005, i.e. after the company was petitioned into bankruptcy.

**B. 9-month investment timeframe**

*Units not invested in accordance with required timeframe*

In our last report on the affairs of NGF in 2000, we noted that, as at 31 October 2000, none of the 74 invested units had been invested in eligible businesses within the required 9-month timeframe after the funds were closed from escrow.

Figure 7 shows the detail of the closing and investment dates for the 74 invested units that were not invested within the required nine months from closing.

**Figure 7**

**Summary of Investment Timeframes**

Units	Closing Date	Invested	Months (Close date to Invested date)
12	13 June 1997	29 Nov 1999	29
6	14 July 1997	29 Nov 1999	28
2	30 Sept 1997	29 Nov 1999	25
2	27 Nov 1997	29 Nov 1999	23
7	15 Jan 1998	29 Nov 1999	22
22	15 Jan 1998	19 Dec 2000	35
3	17 Jan 2000	11 Feb 2002	25
17	17 Jan 2000	18 Sept 2002	32
3	19 Dec 2000	18 Sept 2002	21
<b>74</b>			

Source: HSBC Capital - Investor Listing 31 March 2006.

Since 31 October 2000, 10 units have been closed and invested within the 9-month period. Of these:

- 7 were new investments that were invested within the required 9-month timeframe, thereby increasing the total invested to 81; and
- 3 were replacements for previously invested units that were refunded. These also were invested within the required 9-month timeframe. However, these replacement units are receiving the enhanced interest associated with the units that they replaced.

---

### C. Minimum investment period

*Some investor units may not be compliant with minimum 5-year investment period*

Under the *Immigration Regulations, 1978*, 70% of NGF investments must be made in the active business operations of eligible businesses in the Province for a minimum of 5 years. There are several situations where investors may not meet this requirement. For example:

- The final payment for the purchase of the Bonne Bay hospital project was made on 19 December 2005. After that date, Hospital Leasing Services Inc. will no longer be considered an operating eligible business; however, there will still be 3 investors in the project that will not have completed their 5-year minimum investment;
- NGF's investment in the Lawn project matures 6 September 2007; however, one of the investors will not have completed the 5-year minimum investment period until 15 December 2008; and
- There are 3 investors who were closed from the escrow account to replace another 3 investors who were refunded because they had their visa applications denied. There is uncertainty as to when the minimum investment period started for the replacement investors.

As a result, the NGF may not be in compliance with Confidential Offering Memorandum and the *Immigration Regulations, 1978* with respect to the minimum investment period.

*NGF not  
complying with  
financial  
reporting  
regulations*

#### **D. Reporting requirements**

Under the *Immigration Regulations, 1978*, NGF is required to provide annual audited financial statements to Citizenship and Immigration Canada within 140 days (20 May) after the end of each financial year. NGF is not complying with these *Regulations* in that it did not provide audited statements to Citizenship and Immigration Canada by the required deadline for the years ended 31 December 2001, 2004 and 2005. In fact, as of 31 December 2006 the financial statements for the year ended 31 December 2004 were still not finalized and the financial statements for 31 December 2005 had not been prepared.

NGF has also not complied with the Confidential Offering Memorandum, in that it has:

- Not always distributed unaudited interim financial statements to investors;
- Not submitted annual audited financial statements to the escrow agent in time for distribution to investors by 30 April for 2001, 2004 and 2005; and
- Not ensured the escrow agent has prepared and distributed quarterly reports to investors.

---

#### **Provincial Authorities**

In a Treasury Board Minute dated 19 April 2005 as a result of a proposal by the Minister of Finance and President of Treasury Board dated 11 January 2005 related to the status of NGF, Treasury Board directed the following:

- The Department of Finance was directed to advise Executive Council as soon as it had determined whether or not NGF will incur a shortfall between the amount needed to repay immigrant investors and the proceeds from the sale of the hospital.
- For those investors still in escrow, NGF officials were directed to consult with Citizenship and Immigration Canada and obtain a legal opinion as to the liability to these investors and report back to Treasury Board before taking any action that may incur additional costs.

At the time of our review, NGF officials could not provide any evidence that these directions from Treasury Board had been carried out.

---

## Recommendations

---

*The Board of Directors of the Newfoundland Government Fund Limited (the Board) should, in collaboration with legal counsel, review all available legal and other options to the extent possible to recover its investments or secure its assets.*

*We also recommend that the Board:*

- *Approve all changes in interest rates paid to investors;*
- *Resolve the remaining compliance issues relating to the Immigration Regulations, 1978;*
- *Decide on the appropriate course of action with respect to the investors still in escrow;*
- *Comply with Treasury Board direction; and*
- *Complete a cash flow analysis to the date (15 December 2008) the last investor will be repaid.*

---

## Board's Response

---

*A great deal of the Report consists of the background on the Federal Immigrant Investor Program, Newfoundland Government Fund Limited (NGF), and its investment objectives, the closing and investment of investor units, etc., most of which had already been included in previous reports completed by your Office. Currently, the significant issues facing NGF centre around its investments in two projects, and we will focus on these issues in this response.*

*The investments in the Bonne Bay hospital and the Lawn school followed public tender calls for the construction and lease of the facilities. The terms of each tender call required a fixed price contract, and provided for 100% financing by NGF. The "Investment Objectives" outlined in NGF's Offering Memorandum provided that "Investments will only be made in projects which are supported by an agreement from the Province of*

*Newfoundland, municipal body or crown corporation ...to make payments which in the opinion of the Board of Directors will be sufficient to enable the project to ... repay the investment by the Fund at the end of the 5 year term ...” . To comply with the Federal Immigration Regulations, which required that the funds be invested and maintained in the “active business operations of eligible businesses until the Minimum Holding Period expires”, an operating lease arrangement, rather than a capital lease, was necessary.*

*The financing strategy linked repayment of the five year loans from NGF to the developers with the early purchase option under the operating leases. The lease payments over the initial five years, plus interest earned by the developers on accumulating cash balances, together with the purchase option at the end of this period, were intended to provide the developers with the funds to repay the loans advanced by NGF. In turn, NGF could then repay the immigrant investors.*

*Simply put, the five year loans from NGF to the developers, combined with the leasing arrangements between the developers and two Crown corporations, were a means to utilize the funding available as a result of the Province's participation in the Federal Immigrant Investor Program. Both the hospital and the school were designed by Government, 100% financing was being provided by NGF, and the leasing terms were contained in the tender package, so that the only variable could be the contractor/developer's price to construct the facility, which price would also include the developer's profit on the transaction.*

*The developers of the hospital and the school submitted fixed prices for construction of the facilities and lease to the respective Crown corporations. In both cases, an “offer to construct and lease form” was signed by the developer, stating the construction cost and accepting the terms of the financing and lease arrangements. The tender documents provided that the tender prices could only be revised through change orders approved by the Department of Transportation and Works, but there were no change orders approved to increase the construction costs of the hospital and the school above \$9.4 million and \$4.73 million, respectively. In fact, progress claims submitted by the developers confirm these costs, up to and including the final billings.*

*Obviously, not being a party to any subsequent transactions, NGF could not have known that the developers, after submitting a fixed price and securing 100% financing from NGF, would then enter into construction contracts with a related company to build the facilities at costs in excess of their tendered prices. It should be noted that these construction contracts are signed on behalf of both the developers and the contractor by the same individual who executed the “offer to construct and lease” forms*

*described earlier. NGF questions whether or not these transactions between non-arms length parties, after award of the tenders, constituted breach of the tender and financing arrangements. These are issues the Board will refer to the Department of Justice.*

*We do not agree that “poor management ... resulted in losses to NGF”. Rather these losses occurred because there was no mechanism in place to ensure the developers could not transfer funds to their related construction company. It seems that your Office is suggesting this could have been avoided had NGF required the developer to repay a portion of the principal of the loan within the five year period. But this would be contrary to the Immigration Regulations, which required that the investment be “maintained” in active business operations during the entire five year holding period.*

*Your Report states that because Hospital Leasing Services Inc. was first placed in receivership, followed by bankruptcy, there is a question as to whether this still qualified as an investment in an “active business”. We would point out that the structure of the financing and leasing arrangement never changed during this period, as the monthly lease payments continued, but were remitted to the trustee, until the hospital was acquired by Western Regional Integrated Health Authority in December 2005, in accordance with the terms of the lease. The investor units were repaid at the end of their five year terms, as required. This has never been questioned by Citizenship and Immigration Canada, and in our view there is no compliance issue.*

*To conclude then, it is obvious that as a result of the transactions between the developers of the hospital and the school and a related construction company, NGF finds itself in a position where, unless financial assistance is provided by the Province, the Corporation will not be able to meet its payment obligations to all holders of investment units. A request for financial assistance will be submitted to Government shortly. This should satisfy any financial viability issues, and allow for the finalization of the 2004 and 2005 financial statements. NGF will also seek direction from Government regarding recovery of the losses on its investments in the two projects.*







## Highlights

Highlights of a review of pension plans up to 21 March 2006.

### Why our Office Did this Review

The objective of this review was to determine whether the Department of Government Services adequately monitors the activities of registered pension plans as required by the *Pension Benefits Act, 1997*.

### What our Office Recommends

Our officer recommends that the Department should:

- establish a risk based system for monitoring pension plans including the level of inspections and audits to be performed;
- require that Pension Plan Administrators submit annual financial statements;
- ensure Annual Information Returns received from Administrators are checked for reasonability, accurately recorded and that any issues identified are appropriately resolved;
- respond on a timely basis to correspondence received from Pension Plan Administrators;
- prepare regular reports on the activities of the Superintendent including progress made on the goals and objectives of the Office, and the current state of the pension plans; and
- ensure compliance staff are adequately trained.

### What the Department Said

To provide balance to this report and to ensure full disclosure, the Department was asked to formulate a response to our findings and conclusions. The Department's response, verbatim, is included at the end of this report. Readers are encouraged to consider the Department's comments in this regard.



To view the full report, refer to the web site [www.gov.nl.ca/agg/reports.htm](http://www.gov.nl.ca/agg/reports.htm). For more information, contact Nina Goudie, Director of Information Resources, 709-729-2346 or [ninagoudie@gov.nl.ca](mailto:ninagoudie@gov.nl.ca).

### Chapter 2, Part 2.9

#### DEPARTMENT OF GOVERNMENT SERVICES Superintendent of Pensions

The Department of Government Services, through the Superintendent of Pensions, is responsible for administration of the *Pension Benefits Act, 1997*, including monitoring of pension plans. The Superintendent monitors pension plans to ensure compliance with legislation and to safeguard the accrued pension entitlements of plan members. The *Act* applies to all pension plans for those employed in the Province, with the exception of Pension plans to which an Act of the Parliament of Canada applies (e.g. for employees working in the Province employed by a Federally regulated employer).

#### What We Found

##### (a) Inadequate monitoring of pension plans

Up to 21 March 2006, 175 pension plans were registered with the Province. These plans represent 72,955 active members and have a total pension liability of \$10.6 billion. Our review of Departmental records and a sample of 20 pension files indicated that monitoring the activities of pension plans is inadequate, as follows:

The Department does not have a formal risk assessment process to identify pension plans which may not be complying with legislation or which may not have sufficient assets to provide pension benefits to members when they retire. In particular, there were no benchmarks in place for such ratios as minimum rate of return on investments, funding ratios and assets per member. We found the following at March 2006:

- the one year rate of return on investments for 69 of the 175 plans, representing 2,559 members was below 5% including 8 plans (24 members) that had a negative return;
- approximately \$5.1 billion or 60% of the public sector and \$163.8 million or 9% of the private sector pension liability for defined benefit pension plans was unfunded; and
- 15 of the 105 defined contribution plans, representing more than 85% of the members, had accumulated an average of less than \$10,000 per member.

These findings highlight the need for the Department to develop a formal risk assessment process to determine what level of follow-up action, such as enquiries, inspection or a compliance audit is required.

We also found that there is no requirement for Administrators to submit financial statements (either audited or unaudited) and, although the *Pension Benefits Act, 1997* gives the Superintendent the authority to carry out "periodic or other inspections and audits of registered pension plans," the Department has never conducted either an inspection or an audit.

##### (b) Inaccurate database

We performed an analysis of the Department's database and identified instances where information was incorrectly entered in the database, or where obvious incorrect information was submitted by Administrators and entered in the database. These anomalies were not identified by Department officials which brings into question the adequacy of monitoring activities in terms of data entry validation, and the ability to use the database to analyze pension plan performance. The Department does not have criteria the Compliance Officer can use as a guideline for identifying information on the Annual Information Return which would be considered unusual and require follow-up.

##### (c) Other

Our review also identified that correspondence was not always addressed on a timely basis, the Department's Compliance Officer has received no formal training on pension plan management and no annual report on pension plan activity is provided or required to be provided to the Minister of Government Services and the House of Assembly.

### Introduction

---

#### Background

The Department of Government Services (the Department), through the Superintendent of Pensions, is responsible for administration of the *Pension Benefits Act, 1997* (the *Act*), including monitoring of pension plans. The Superintendent monitors pension plans to ensure compliance with legislation and to safeguard the accrued pension entitlements of plan members.

The *Act* applies to all pension plans for those employed in the Province, with the exception of Pension plans to which an Act of the Parliament of Canada applies (e.g. for employees working in the Province employed by a Federally regulated employer).

There are two types of pension plans: defined benefit plans and defined contribution plans.

In a defined benefit plan, the pension benefits to be received by members are based on the years of service as a plan member, average salary and any other terms of the applicable plan. In a defined contribution plan the pension benefits are based on the accumulated employer and employee contributions and investment income.

Figure 1 shows the number of defined benefit and defined contribution pension plans registered in the Province, the number of active members, and the estimated pension liability consisting of the market value of assets and the unfunded liability. Active members are those who are currently contributing to the plan. Amounts for individual plans were obtained from the Department's database as at 21 March 2006 and represent information on members, and pension liabilities and funding, for each plan's fiscal year end.

Figure 1

**Registered pension plans  
As of 21 March 2006**

Pension Plan	Plans	Active Members	Estimated Pension Liability (\$000) (A) + (B) *	Market Value of Assets (\$000) (A)	Unfunded Liability	
					(\$000) (B)	%
<b>Defined Benefit</b>						
Public Service Pension Plan	1	25,923	\$ 3,971,212	\$ 1,920,602	\$ 2,050,610	52
Teachers Pension Plan	1	5,959	3,438,295	813,325	2,624,970	76
Memorial University Pension Plan	1	3,036	716,405	583,984	132,421	18
Uniformed Services Pension Plan	1	593	270,162	43,972	226,190	84
Members of the House of Assembly Pension Plan	1	48	76,564	16,661	59,903	78
Other defined benefit plans	65	10,393	1,840,047	1,676,199	163,848	9
<b>Total defined benefit</b>	<b>70</b>	<b>45,952</b>	<b>10,312,685</b>	<b>5,054,743</b>	<b>5,257,942</b>	<b>51</b>
<b>Defined Contribution</b>						
Government Money Purchase Plan	1	22,423	168,911	168,911	0	0
Other defined contribution plans	104	4,580	148,676	148,676	0	0
<b>Total defined contribution</b>	<b>105</b>	<b>27,003</b>	<b>317,587</b>	<b>317,587</b>	<b>0</b>	<b>0</b>
<b>Total</b>	<b>175</b>	<b>72,955</b>	<b>\$ 10,630,272</b>	<b>\$ 5,372,330</b>	<b>\$ 5,257,942</b>	<b>49</b>

Source: Department of Government Services pension database as of 21 March 2006.

\*The pension liability is estimated based on the assets reported on the annual information returns and the unfunded liability reported by the most recent actuarial valuation. These amounts do not reflect any adjustment for the special payment of \$1.953 billion made to the Teachers' Pension Plan in March 2006.

As Figure 1 indicates, as of 21 March 2006, the Department's database showed there were 175 pension plans, covering 72,955 active members (persons paying into the pension plan). Approximately 25,000 additional members covered by the defined benefit pension plans (mostly Government) are non-active (either receiving a pension or waiting to receive a pension) and therefore not recorded in the database.

## Audit Objective and Scope

---

### Objective

The objective of this review was to determine whether the Department adequately monitors the activities of registered pension plans as required by the *Pension Benefits Act, 1997*.

---

### Scope

Our review included discussions with Departmental officials, an examination of Departmental records and a sample of pension files up to 21 March 2006. We completed our review in April 2006.

---

## Conclusions

---

### Inadequate monitoring of pension plans

Up to 21 March 2006, 175 pension plans were registered with the Province. These plans represent 72,955 active members and have a total pension liability of \$10.6 billion. Our review of Departmental records and a sample of 20 pension files indicated that monitoring the activities of pension plans is inadequate, as follows:

- The Department does not have a formal risk assessment process to identify pension plans which may not be complying with legislation or which may not have sufficient assets to provide pension benefits to members when they retire. In particular, there are no benchmarks in place for such ratios as minimum rate of return on investments, funding ratios and assets per member. We found the following at March 2006:
  - the one year rate of return on investments for 69 of the 175 plans, representing 2,559 members was below 5% including 8 plans (24 members) that had a negative return;
  - approximately \$5.1 billion or 60% of the public sector and \$163.8 million or 9% of the private sector pension liability for defined benefit pension plans was unfunded; and
  - 15 of the 105 defined contribution plans, representing more than 85% of the members, had accumulated an average of less than \$10,000 per member.

These findings highlight the need for the Department to develop a formal risk assessment process to determine what level of follow-up action, such as enquiries, inspection or a compliance audit, is required.

- There is no requirement for Administrators to submit financial statements (either audited or unaudited). Therefore, the Superintendent of Pensions does not have reliable information to assess the financial condition of a plan and to identify pension portfolios at risk on an annual basis.
- Although the *Pension Benefits Act, 1997* gives the Superintendent the authority to carry out “*periodic or other inspections and audits of registered pension plans*”, Department officials have never conducted either an inspection or an audit. Furthermore, they have neither designed procedures to be used in inspections or audits, nor determined selection criteria for conducting inspections and audits. Without conducting inspections or audits, it is difficult for the Superintendent of Pensions to assess compliance with the *Act* and the reliability of the information provided by the Administrators.

### **Inaccurate database**

We performed an analysis of the Department's database and identified 5 instances of the 175 plans where information was incorrectly entered in the database (2 instances), or where obvious incorrect information was submitted by Administrators (3 instances) and entered in the database. These anomalies were not identified by Department officials which brings into question the adequacy of monitoring activities in terms of data entry validation, and the ability to use the database to analyze pension plan performance. The Department does not have criteria the Compliance Officer can use as a guideline for identifying information on the Annual Information Return which would be considered unusual and require follow-up.

### **Correspondence not addressed on a timely basis**

Correspondence from Administrators requiring a response by the Department was not always addressed on a timely basis. For example, we reviewed 20 files and found in 15 files there were instances where the Department did not respond until more than a year after the request. Furthermore, in 5 of the 15 files, there were requests outstanding longer than a year which had still not been responded to. In 1 instance, the request had been outstanding since 1999.

---

## Superintendent of Pensions

---

<b>Lack of reporting</b>	The Superintendent is not reporting on the pension plans in the Province. There is no annual report on pension plan activity required to be provided to the Minister of Government Services and the House of Assembly and no such report is provided.
<b>Lack of training</b>	No formal training on pension plan management has been provided to the Department's Compliance Officer.

---

## Findings and Recommendations

---

<b>Overview</b>	<p>In April 2006 we completed a review of pension plans administered by the Department of Government Services, based on information obtained from the Department's database as at 21 March 2006. We also reviewed a sample of 20 pension plan files of the 175 registered plans at that time.</p> <p>The <i>Pension Benefits Act, 1997</i> (the <i>Act</i>) provides for the appointment of a Superintendent of Pensions (the Superintendent). The Superintendent is an assistant deputy minister in the Department of Government Services whose responsibilities include: commercial registrations; insurance and pensions; trade practices and licensing; residential tenancies; securities; and credit unions. There are 2 employees in the area of pensions: the Deputy Superintendent of Pensions and the Compliance Officer.</p> <p>The Superintendent monitors pension plans to ensure compliance with legislation and to safeguard the accrued pension entitlements of plan members. Under the <i>Act</i>, the powers and duties of the Superintendent relating to monitoring pension plans include the following:</p> <ul style="list-style-type: none"><li>• carrying out periodic or other inspections and audits of registered pension plans; and</li><li>• directing the administrator of a pension plan to provide information to plan members at a time and in a manner specified by the Superintendent.</li></ul> <p>The Superintendent also has the right under the <i>Act</i> to revoke the registration and cancel the certificate of registration for a pension plan that ceases to comply with the requirements of the <i>Act</i>.</p>
-----------------	---

### Findings

Our review identified issues in the following areas:

1. Monitoring information received from administrators
  2. Risk assessment
  3. Reporting on pension plans
  4. Training
- 

### 1. Monitoring Information Received from Administrators

---

Pension Plan Administrators (Administrators) are either the employer or another body established in accordance with the terms of the pension plan to oversee pension plan portfolios. They are responsible for filing the necessary documents to register a pension plan with the Superintendent. Administrators are also required to file Annual Information Returns as well as actuarial valuation reports every three years.

The Annual Information Return provides the Superintendent with both financial and membership information about a specific pension plan. The actuarial valuation reports confirm information on the amount of the pension liability, the funded portion and the number of members.

The Compliance Officer is responsible for reviewing the Annual Information Returns received from the Administrators, investigating and correcting discrepancies and entering current information on the plan in the Department's computerized database.

The Deputy Superintendent reviews and approves actuarial valuation reports provided by actuaries. The Deputy Superintendent also reviews and approves any plan amendments proposed by the Administrators.

---

#### **Inadequate review of reports or validation of data entry**

Our review indicated that the Department does not have sufficient criteria that the Compliance Officer can use as a guideline for identifying information on the Annual Information Return which would be considered unusual and require follow-up. In addition, there is no independent review of data entered in the Department's database.

We performed an analysis of the database and identified 8 instances of the 175 plans where the rate of return on investments was unusual. Details are as follows:



- 4 pension plans indicated a rate of return on investments exceeding 20%. Our review of these plans identified the following:
  - 1 plan showed a return of 35% resulting from incorrect information being entered in the database. Subsequent to our bringing this to the attention of the Compliance Officer, the correct information was entered which brought the return to 3%; and
  - 3 plans showed returns of 67%, 34% and 33% resulting from obvious incorrect information submitted by the administrators being entered in the database. Subsequent to our bringing this to the attention of the Compliance Officer, correct information was requested from the administrators which brought the returns to 7%, 11% and 11% respectively.
- 4 pension plans indicated a decline in value of more than 15%. Our review of the these plans identified the following:
  - 1 plan showed a loss of 407% resulting from incorrect information being entered in the database. Subsequent to our bringing this to the attention of the Compliance Officer, the correct information was entered which brought the loss to 4%;
  - 2 plans had recently been registered and as a result there were not enough earnings to offset the setup fees; and
  - 1 plan correctly recorded a loss of more than 15%.

These anomalies were not identified by Department officials which brings into question the adequacy of monitoring activities in terms of data entry validation, and the ability to use the database to analyze pension plan performance.

---

**Historical data not maintained in current database**

Historical data is not maintained in the current database but maintained in separate databases for each year. As historic information is not maintained in the current database, the Department cannot readily identify trends or variations in the financial performance of the plans from year to year.

---

### Financial statements not required

There is no requirement for Administrators to submit financial statements (either audited or unaudited). Instead, they are required to submit an actuarial valuation at least every three years and an Annual Information Return which provides some statistical and financial information. However, the Return is neither verified by an auditor nor required to be detailed, e.g. in terms of the type, value and maturity of investments. Therefore, the Superintendent of Pensions does not have reliable information to assess the financial condition of a plan and to identify pension portfolios at risk on an annual basis.

---

### Correspondence not addressed on a timely basis

The Superintendent receives approximately 350 pieces of correspondence each year relating to the operation of various pension plans. e.g. requests from an Administrator for approval to amend terminology in the plan or amend benefit contributions. The Compliance Officer tracks the correspondence in the Department's database by entering information such as date received, whether a response is required and the date of response.

Our review of a sample of 20 of the 175 pension plan files identified that correspondence was not followed up by the Department on a timely basis. For example, in 15 of the 20 files there were instances where the Department did not respond until more than a year after the request. Furthermore, in 5 of the 15 files, there were requests outstanding longer than a year which had still not been responded to. To illustrate the significance of some of the requests, in 1 instance relating to a request outstanding since 1999, the Administrator was seeking approval to amend the wording in a “plain text” document to be provided to employees about the pension plan.

---

### No periodic inspections or audits

Under the *Act* the Superintendent has the authority to carry out “*periodic or other inspections and audits of registered pension plans.*” However, Department officials have never conducted either an inspection or an audit. Furthermore, they have not designed procedures to be used in inspections or audits, or determined selection criteria for conducting inspections and audits. Without inspections or audits being conducted, it is difficult for the Superintendent of Pensions to assess compliance with the *Act* and the reliability of the information provided by the Administrators.

---

### **No policy and procedures manual**

Although the Department does have a pensions policy and procedure manual, it is undated and in draft form. As a result, there are no formal or current guidelines approved by the Department for use in monitoring pension plans.

---

## **2. Risk Assessment**

---

### **No formal risk assessment of pension plans**

Our review indicated that the monitoring of pension plans is not adequate in assessing the risk of loss of value in pension plans. Issues identified are as follows:

- a computerized process has not been designed to analyze the information in the database to identify plans that are at a higher risk of loss or show a decline in members' entitlements;
  - non-compliance issues with legislative requirements (such as related party lending, concentration of investments and excessive foreign investments) are not identified and used to assess the plans; and
  - other than reviews of the Annual Information Returns and actuarial valuation reports submitted by the Pension Plan Administrators, there are no additional reviews or visits to the Administrator's office by the Superintendent or Departmental staff to ensure compliance with the legislation.
- 

### **Ratios**

In the absence of a formal risk assessment process by the Department, we reviewed the following ratios to assess pension plans which may be at risk:

- (a) rate of return on investments for all plans;
- (b) the funding ratio for defined benefit plans; and
- (c) assets per member for defined contribution plans.

The results of our review of these ratios highlight the need for the Department to develop a formal risk assessment process. Details of our findings for each ratio are as follows:

---

**No benchmark for minimum return on investment**

*(a) Rate of return on investments for all plans*

The Department has not determined a benchmark for a minimum return on investment that would require the Superintendent to take follow-up action such as enquiries, inspection or a compliance audit. The lower the rate of return, the more funds members and employers will have to contribute to keep the plan solvent and less assets the plan will have to discharge pension obligations.

Figure 2 shows the return on investment for a one year period for the 175 pension plans.

**Figure 2**

**Pension Plans  
Return on Investment**

Plan	Members	1 Year Return on Investment				
		< 0%	0% to 5%	5% to 10%	10% to 15%	15% to 20%
<b>Public Sector Pension Plans</b>						
Public Service Pension Plan	25,923				1	
Government Money Purchase Plan	22,423			1		
Teachers Pension Plan	5,959				1	
Memorial University Pension Plan	3,036			1		
Uniformed Services Pension Plan	593				1	
Members of the House of Assembly Pension Plan	48				1	
<b>Private Sector Pension Plans</b>						
Defined Benefit Plans	10,393	8	19	29	7	2
Defined Contribution Plan	4,580		42	51	9	2
<b>Totals</b>	<b>72,955</b>	<b>8</b>	<b>61</b>	<b>82</b>	<b>20</b>	<b>4</b>

Source: Department of Government Services pension database as at 21 March 2006.

**Rate of return below 5% for 69 plans**

As Figure 2 shows, a review of the one year rate of return on investments identified that the return for 69 of the 175 plans, representing 2,559 members was below 5%, including 8 plans (24 members) that had a negative return. The variation in returns highlights the need for the Department to develop benchmarks for assessing plan performance.

**Funding ratio not used as risk factor**

*(b) The funding ratio for defined benefit plans*

The *Pension Benefits Act Regulations* requires that if plans become insolvent, they have five years to become solvent. Plans become insolvent when plan liabilities exceed plan assets, which place them at risk for discharging their responsibility to provide pension benefits.

The funding ratio represents the percentage of a plan's pension liabilities that are covered by fund assets. This is also the percentage of earned pension that members could expect to receive if the employer became insolvent.

The Department does not use a funding ratio as a risk factor in determining the level of follow-up such as enquiry, inspection or compliance audit. Figure 3 shows the breakdown of unfunded liability within the defined benefit pension plans.

**Figure 3**

**Defined Benefit Pension Plans  
Breakdown of Unfunded Liability**

Funding Ratio	Plans	Active Members	Estimated Pension Liability * (\$000)	Market Value of Assets (\$000)	Unfunded Liability (\$000)
<b>Public Sector Pension Plans</b>					
Memorial University - 82%	1	3,036	\$ 716,405	\$ 583,984	\$ 132,421
Public Service - 48%	1	25,923	3,971,212	1,920,602	2,050,610
Members of the House of Assembly - 22%	1	48	76,564	16,661	59,903
Teachers - 24%	1	5,959	3,438,295	813,325	2,624,970
Uniformed Services - 16%	1	593	270,162	43,972	226,190
<b>Total public sector - 40%</b>	<b>5</b>	<b>35,559</b>	<b>8,472,638</b>	<b>3,378,544</b>	<b>5,094,094</b>
<b>Private Sector Pension Plans</b>					
100%	32	4,031	575,099	575,099	0
Between 90% and 100%	13	2,304	284,038	266,422	17,616
Between 80% and 90%	11	3,126	929,155	796,538	132,617
Between 50% and 80%	4	862	51,492	38,140	13,352
Between 0% and 50%	0	0	0	0	0
0%	5	70	263	0	263
<b>Total private sector - 91%</b>	<b>65</b>	<b>10,393</b>	<b>1,840,047</b>	<b>1,676,199</b>	<b>163,848</b>
<b>Total 49%</b>	<b>70</b>	<b>45,952</b>	<b>\$ 10,312,685</b>	<b>\$ 5,054,743</b>	<b>\$ 5,257,942</b>

Source: Department of Government Services pension database as at 21 March 2006

\* The pension liability is estimated based on the assets reported on the annual information returns and the unfunded liability reported by the most recent actuarial valuation. These amounts do not reflect any adjustment for the special payment of \$1.953 billion made to the Teachers' Pension Plan in March 2006.

### **\$5.3 billion in unfunded liabilities**

As shown in Figure 3, approximately \$5.1 billion or 60% of the public sector and \$163.8 million or 9% of the private sector pension liability for defined benefit pension plans was unfunded. This means that there was not enough money available in the plans to fulfill the obligation to pay pension benefits. Furthermore, of the 70 defined benefit pension plans, we identified the following:

- 32 plans were fully funded but represent only 4,031 active members, or 9% of the total active members;
- 33 plans were partially funded, representing 6,362 active members, or 14% of total active members; and
- 5 Provincial pension plans representing 35,559 active members, or 77% of total active members, were only 40% funded. It is noted that Provincial plans are exempt from the *Pension Benefits Act Regulations* with respect to funding requirements for solvency.

The extent of pension plans which were less than fully funded highlights the need for the Department to utilize funding ratios for assessing its level of follow-up activity.

### **No benchmark for assessing minimum average assets per member**

#### *(c) Assets per member for defined contribution plans*

The Department has not determined a benchmark for the minimum average assets per member or the change in assets per member that would require the Superintendent to take follow-up action such as enquiries, inspection or a compliance audit. The lower the average assets, the less pension funds will be available to a member of a defined contribution plan upon retirement.

Figure 4 shows the average assets per member of the 105 defined contribution pension plans. The change in average assets per member is not available since historical information is not maintained in the current database.

Figure 4

**Defined Contribution Pension Plans  
Average Assets Per Member**

Average Assets per Member	Total		Public Sector		Private Sector	
	Plans	Members	Plans	Members	Plans	Members
Less than \$10,000	15	23,094	1	22,423	14	671
Between \$10,000 and \$25,000	25	1,313			25	1,313
Between \$25,000 and \$50,000	34	1,940			34	1,940
Between \$50,000 and \$75,000	12	291			12	291
Between \$75,000 and \$100,000	8	272			8	272
Between \$100,000 and \$200,000	7	79			7	79
Over \$200,000	4	14			4	14
<b>Total</b>	<b>105</b>	<b>27,003</b>	<b>1</b>	<b>22,423</b>	<b>104</b>	<b>4,580</b>

Source: Department of Government Services pension database as at 21 March 2006

**Assets less than \$10,000 for 85% of members**

As Figure 4 shows, 15 of the 105 defined contribution plans, representing more than 85% of the members, had accumulated an average of less than \$10,000 per member. While factors such as the length of time a plan has been established and the age of the members does have an impact on the average asset value per employee, significant numbers at these levels brings into question whether follow-up action is required to determine the reasonableness of the numbers.

**3. Reporting on Pension Plans**

**No annual report submitted to the Minister**

An important step in the accountability process is reporting on the discharge of assigned responsibilities. Our review indicated that the Superintendent is not adequately reporting on the pension plans in the Province. There is no annual report on pension plan activity required to be provided to the Minister of Government Services and the House of Assembly and no such report is provided.

The Department does provide some information in its overall departmental annual report; however, this information is limited to a chart showing the number of pension plans and total pension assets for the last 3 years.

#### 4. Training

---

As the Compliance Officer is responsible for monitoring pension plans, it is important that appropriate training be provided. This Officer reviews the information reported in the Annual Information Return for reasonableness and ensures it is consistent with the actuarial valuation report. In addition, the Officer reviews pension contracts and amendments, and records correspondence in a computerized correspondence log.

**Inadequate training for Compliance Officer**

Our review indicated that the position of Compliance Officer is held by an Administrative Officer I who is not specifically trained in pension plan management. Departmental staff indicated that there are no training opportunities currently available in pension regulations.

---

#### Recommendations

---

*The Department should:*

- *establish a risk based system for monitoring pension plans including the level of inspections and audits to be performed;*
  - *require that Pension Plan Administrators submit annual financial statements;*
  - *ensure Annual Information Returns received from Pension Plan Administrators are checked for reasonability, accurately recorded and that any issues identified are appropriately resolved;*
  - *respond on a timely basis to correspondence received from Pension Plan Administrators;*
  - *prepare regular reports on the activities of the Superintendent including progress made on the goals and objectives of the Office, and the current state of the pension plans; and*
  - *ensure compliance staff are adequately trained.*
-



## Department's Response

---

### **Inadequate Monitoring of Pension Plans**

*We disagree that our monitoring of pension plans is inadequate. We receive Annual Information Returns (AIR<sup>s</sup>) on all pension plans and a triannual actuarial valuation report on all defined benefit pension plans. This is the standard for monitoring pension plans in Canada. We review all of these reports and where there are funding deficiencies we ensure the pension plan administrators contribute the required funding in accordance with legislative requirements.*

*The report states that we do not have a formal risk assessment process to identify pension plans which may not be complying with legislation or which may not have sufficient assets to provide pension benefits to members when they retire. In our view, we do not need a formal risk assessment process as we review the AIR<sup>s</sup> and actuarial valuation reports of every pension plan. Where there is a funding shortfall we ensure the plan administrator provides the required funding in accordance with legislative requirements.*

*The report indicates that there are no benchmarks in place for such ratios as minimum rate of return on investments, funding ratios and assets per member. It is not appropriate to set a minimum rate of return on investments as rates of return depend on many factors such as interest rates, stock markets and asset mix of the plan. Actuaries must include expected rates of return and actual rates of return when completing their reports on funding requirements. Where actual returns are different than estimated returns reasons are usually provided, and if not provided, we enquire as to reasons for differences. We are not aware that any pension regulator sets a minimum rate of return.*

*The report is incorrect in stating there are no funding ratios. There are two funding tests that all pension plans must meet as required by legislation. One is a solvency test. If there is a shortfall with this test, the plan has five years to pay up the deficiency. The other is the going concern test. If there is a shortfall with this test, the plan has fifteen years to pay the deficiency.*

*An asset per member ratio is not calculated as it is a meaningless ratio. This would depend on facts such as how long a plan was in place, how long members were in the plan, contribution rates, etc. A plan in place for two years will have a lot less assets per member than a plan in place for thirty years with long term employees. It has no value when evaluating the funding position of a pension plan. In addition, the regulator has no input*

*into the amount and type of a pension that an employer provides its employees. We are not aware of any pension regulator tracking such a ratio.*

*The report states that there is no requirement for plan administrators to submit financial statements. We advise that financial statements are not the appropriate vehicle to monitor solvency of pension plans. Independent actuarial reports are the appropriate method to do so, as projections on life expectancy, investment returns, length of employment, administration expenses, etc. are required. These are international standards for the regulation of pension plans. We are not aware of any other pension regulators in Canada requiring financial statements.*

*The report states that the Pension Benefits Act, 1997 gives the Superintendent the authority to carry out periodic or other inspections and audits of registered pension plans, but the Department has never done so. While the Superintendent has the authority to carry out such inspections, there is no requirement to do so. All pension plans are monitored through review of AIR<sup>s</sup>, actuarial valuation reports, plan documents, etc. We question the benefit of performing on-site examinations of pension plans compared with the cost of doing so. Plan administrators have the responsibility to comply with pension legislation and many hire pension consultants to carry out this work. In fact, we review pension plan documentation before registering the plan which is not done by all regulators. Some regulators believe that it is the responsibility of the plan sponsor to ensure everything in the plan complies with legislation.*

### **Inaccurate Database**

*The report identified 5 instances of the 175 plans where inaccurate information was in the database. While this is a low error rate, we will take steps to further reduce, or eliminate if possible, errors in the database.*

### **Historical data not maintained in current database**

*We acknowledge that our computer system needs upgrading, which will be done as resources permit.*

### **Correspondence not addressed on a timely basis**

*We are aware that some correspondence was not always addressed on a timely basis. Many of the questions from plan administrators require detailed analysis, and sometimes legal opinions, however, we will endeavour to improve our response times.*

### **Lack of reporting**

*There is no requirement for the Superintendent to report on pension plans in the province, nor is there a requirement for the Minister to provide a report on pension plans to the House of Assembly, however, with the new Transparency and Accountability Act the Minister will be reporting on the activities of the Department to the House of Assembly, we will consider whether a separate report on pension plans in the province is appropriate.*

### **Lack of Training**

*The report states that no formal training on pension plan management has been provided to the Department's Compliance Officer. We are not aware that such training is available, but on-the-job training has been provided and we believe the Compliance officer has been adequately trained.*

### **No policy and procedures manual**

*A draft policy and procedures manual has been in existence for some time, and is being followed. Steps will be taken to have the manual finalized and approved as soon as possible.*

### **\$5.3 billion in unfunded liabilities**

*The majority of unfunded liabilities are with government sector pension plans, which government is addressing. In fact, \$1.953 billion has already been contributed to the Teachers Pension Plan bringing the figure down to approximately \$3.3 billion. This may be even lower when results for the current year are complete. Of this amount only about \$164 million relates to private sector plans, which are 91% funded. This is a relatively good ratio as this is a number at a specific point in time. Pension plans are for the long term and all are not expected to be fully funded at all times. Where there is a shortfall in funding, legislation provides timeframes for the pension plans to make up the shortfall.*

### **Recommendations:**

*The Department should:*

- *Establish a risk based system for monitoring pension plans including the level of inspections and audits performed.*

*We do not agree with this recommendation as we monitor the Annual Information Returns (AIR) and triannual actuarial reports of all pension plans to evaluate their funding status. Where there is a funding shortfall we require the plan to pay the deficiency in accordance with legislative timetables.*

- *Require that Pension Plan Administrators submit annual financial statements.*

*We do not agree with this recommendation as it will create unnecessary red tape for pension plans in this province that is not required in most other jurisdictions. Independent actuarial reports, not financial statements, are the international standards which pension regulators use to monitor the solvency of pension plans.*

- *Ensure Annual Information Returns received from Pension Plan Administrators are checked for reasonability, accurately recorded and that any issues are appropriately resolved.*

*For the most part this is done, but we will take steps to minimize any errors.*

- *Respond on a timely basis to correspondence received from Pension Plan administrators.*

*There has been a backlog of plan reviews and correspondence in the Pension Section which has been greatly improved. Response times will therefore be improved, and where there may be delays due to analysis or legal opinions, we will advise the Plan Administrators accordingly.*

- *Prepare regular reports on the activities of the Superintendent including progress made on the goals and objectives of the office, and the current state of the pension plans.*

*Currently goals and objectives are prepared on a Departmental basis, but not on a program basis. We are working on Divisional Operational Plans and the Pension Section is part of the Financial Services Regulation Division. We will determine the appropriateness of setting goals and objectives specifically for the Pensions Section. Similarly, we will consider the appropriateness of preparing reports specifically for the Pensions Section and the appropriate distribution of such reports.*

## Superintendent of Pensions

- *Ensure compliance staff are adequately trained.*

*It is our view that the present Compliance Officer is adequately trained.*





# Highlights

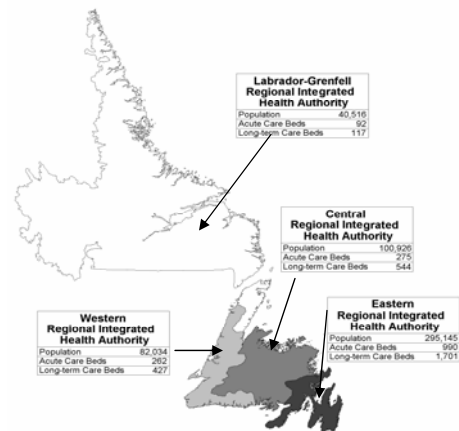
Highlights of a monitoring review of health care boards from 1 April 2005 to 31 March 2006.

## Why our Office Did this Review

As part of our work we continue to monitor the financial position and annual operating results of the Regional Integrated Health Authorities (boards).

Our review of the boards' financial position in 2006 included an assessment of the annual operating results and the financial position of the 4 boards for each of the 5 years to 31 March 2006.

**Figure 1**  
**Department of Health and Community Services**  
**Regional Integrated Health Authorities**



## What the Department Said

To provide balance to this report and to ensure full disclosure, the Department was asked to formulate a response to our observations and conclusions. The Department's response, verbatim, is included at the end of this report. Readers are encouraged to consider the Department's comments in this regard.

◆ ◆ ◆ ◆

To view the full report, refer to the web site [www.gov.nl.ca/reports.htm](http://www.gov.nl.ca/reports.htm). For more information, contact Nina Goudie, Director of Information Resources, 709-729-2346 or [ninagoudie@gov.nl.ca](mailto:ninagoudie@gov.nl.ca).

## Chapter 2, Part 2.10 DEPARTMENT OF HEALTH AND COMMUNITY SERVICES Monitoring Health Care Boards

Effective 1 April 2005, Government established 4 Regional Integrated Health Authorities throughout the Province by combining the 8 health care institutions and integrated boards with the 4 health and community services boards. In addition, the Eastern Regional Integrated Health Authority assumed the operations of the St. John's Nursing Home Board and the Newfoundland and Labrador Cancer Treatment and Research Foundation.

The financial position of the boards has been deteriorating over the past several years. In an effort to control operating deficits, boards have implemented changes to reduce costs and Government has provided additional funding. As in the past, our Office monitors the financial position and annual operating results of health care institutions and boards.

### What We Found

#### (a) Financial position

The overall financial position of the boards improved slightly in the fiscal year 2006 with unfunded liabilities declining \$7.8 million (1.5%) from \$532.6 million at 31 March 2005 to \$524.8 million at 31 March 2006. All 4 boards had unfunded liabilities at 31 March 2006. The unfunded liabilities of the 4 boards at 31 March 2006 of \$524.8 million are a 15% increase from the \$455.7 million reported in 2002. The unfunded liabilities will eventually have to be funded by Government.

The Eastern Regional Integrated Health Authority accounted for \$355.2 million or 68% of the total \$524.8 million in unfunded liabilities. Two of the 4 boards, the Western Regional Integrated Health Authority and the Labrador-Grenfell Regional Integrated Health Authority, reported increases in the total unfunded liabilities for 2006 over 2005.

#### (b) Operating deficits

During the year, all 4 boards reported operating deficits totalling \$11.0 million. Operating deficits ranged from \$400,000 for the Western Regional Integrated Health Authority to \$5.6 million for the Eastern Regional Integrated Health Authority. One board, the Labrador-Grenfell Regional Integrated Health Authority, reported an annual operating deficit higher than that reported for the fiscal year 2005.

## Introduction

### Overview

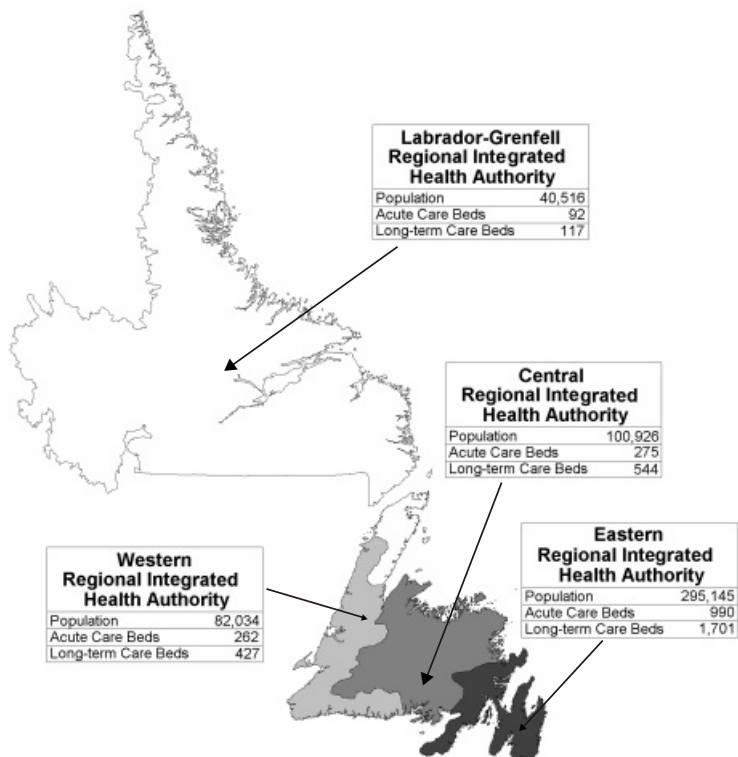
Effective 1 April 2005, Government established 4 Regional Integrated Health Authorities throughout the Province by combining the 8 health care institutions and integrated boards with the 4 health and community services boards. In addition, the Eastern Regional Integrated Health Authority assumed the operations of the St. John's Nursing Home Board and the Newfoundland and Labrador Cancer Treatment and Research Foundation.

The financial position of the boards has been deteriorating over the past several years. In an effort to control operating deficits, boards have implemented changes to reduce costs and Government has provided additional funding. As in the past, our Office monitors the financial position and annual operating results of health care institutions and boards. Figure 1 shows information on the 4 Regional Integrated Health Authorities.

### Regional Integrated Health Authorities

Figure 1

### Department of Health and Community Services Regional Integrated Health Authorities





---

### Conclusions

---

#### Financial position

The overall financial position of the boards improved slightly in the fiscal year 2006 with unfunded liabilities declining \$7.8 million (1.5%) from \$532.6 million at 31 March 2005 to \$524.8 million at 31 March 2006. All 4 boards had unfunded liabilities at 31 March 2006. The combined financial position of the 4 boards at 31 March 2006 of \$524.8 million is a 15% increase from the \$455.7 million reported in 2002. The unfunded liabilities will eventually have to be funded by Government.

The Eastern Regional Integrated Health Authority accounted for \$355.2 million or 68% of the total \$524.8 million in unfunded liabilities. Two of the 4 boards, the Western Regional Integrated Health Authority and the Labrador-Grenfell Regional Integrated Health Authority, reported increases in the total unfunded liabilities for 2006 over 2005.

---

#### Operating deficits

During the year, all 4 boards reported operating deficits totalling \$11.0 million. Operating deficits ranged from \$400,000 for the Western Regional Integrated Health Authority to \$5.6 million for the Eastern Regional Integrated Health Authority. One board, the Labrador-Grenfell Regional Integrated Health Authority, reported an annual operating deficit higher than that reported for the fiscal year 2005.

---

### Observations

---

#### 1. Financial Position

---

Our review of the boards' financial position in 2006 included an assessment of the annual operating results and the financial position of the 4 boards for each of the 5 years to 31 March 2006. Information on the financial position of the 4 boards is outlined in Figure 2.

**Figure 2**  
**Summary of Financial Position**  
**31 March**  
**(\$ Millions)**

					Total	Total	Total	Total	Total
	Eastern	Central	Western	Labrador-Grenfell	2006	2005	2004	2003	2002
Bank Indebtedness	(23.9)	(10.4)	(19.5)	(13.6)	(67.4)	(73.0)	(69.4)	(59.4)	(67.6)
Accounts Payable	(67.7)	(16.0)	(19.6)	(9.0)	(112.3)	(108.4)	(106.2)	(107.2)	(95.8)
Current LTD	(4.2)	(1.1)	(0.9)	-	(6.2)	(5.7)	(5.9)	(5.5)	(4.8)
Less: A/R	26.8	7.8	4.0	5.7	44.3	43.6	54.7	61.9	77.4
<b>Net Liability</b>	<b>(69.0)</b>	<b>(19.7)</b>	<b>(36.0)</b>	<b>(16.9)</b>	<b>(141.6)</b>	<b>(143.5)</b>	<b>(126.8)</b>	<b>(110.2)</b>	<b>(90.8)</b>
Long-term Debt	(164.3)	(18.0)	(6.8)	(1.2)	(190.3)	(198.6)	(204.9)	(208.5)	(210.7)
Severance Pay	(93.4)	(21.6)	(22.3)	(8.2)	(145.5)	(143.2)	(139.4)	(129.8)	(115.2)
Vacation Pay	(28.5)	(8.3)	(6.0)	(4.6)	(47.4)	(47.3)	(46.1)	(41.8)	(39.0)
<b>Total Unfunded Liabilities</b>	<b>(355.2)</b>	<b>(67.6)</b>	<b>(71.1)</b>	<b>(30.9)</b>	<b>(524.8)</b>	<b>(532.6)</b>	<b>(517.2)</b>	<b>(490.3)</b>	<b>(455.7)</b>

Source: Audited Operating Fund Financial Statements.

Note: For comparative purposes, the 2002 to 2005 figures have been restated to include the Health and Community Services Boards, the St. John's Nursing Home Board and the Newfoundland and Labrador Cancer Treatment and Research Foundation as these boards became part of the Regional Integrated Health Authorities effective 1 April 2005 and are included in the 2006 figures.

### Financial position

Our review identified the following regarding the financial position of the boards:

- The overall financial position of the boards improved slightly in 2006 with unfunded liabilities declining \$7.8 million (1.5%) from \$532.6 million at 31 March 2005 to \$524.8 million at 31 March 2006.
- The total unfunded liabilities of the 4 boards increased \$69.1 million (15%) from \$455.7 million as at 31 March 2002 to \$524.8 million as at 31 March 2006.
- As at 31 March 2006, all boards reported bank overdrafts totalling \$67.4 million. The cash positions ranged from an overdraft of \$10.4 million for the Central Regional Integrated Health Authority to an overdraft of \$23.9 million for the Eastern Regional Integrated Health Authority.
- The boards reported a combined net liability of \$141.6 million as at 31 March 2006, which represents the amount by which suppliers' credit and current portion of long-term debt exceed the liquid (cash convertible) assets.

## Monitoring Health Care Boards

- Of the \$190.3 million in long-term debt, \$164.3 million, or 86%, related to the Eastern Regional Integrated Health Authority.

The \$524.8 million in total unfunded liabilities as at 31 March 2006 will be affected by the results of current operations and the level of funding by Government. If the boards have annual operating surpluses in the future, these surpluses could be used to fund the liabilities. On the other hand, if the boards have annual operating deficits, then the deficits, along with the liabilities, will eventually have to be funded by Government.

## 2. Operating Results

### Overview

Figure 3 outlines the annual operating results for the 4 boards for the five years to 31 March 2006.

### Figure 3

#### Summary of Annual Operating Results Years Ended 31 March (\$ Millions)

	Eastern	Central	Western	Labrador-Grenfell	Total 2006	Total 2005	Total 2004	Total 2003	Total 2002
<b>Revenue</b>									
Provincial Plan	798.1	206.7	198.3	96.5	1,299.6	1,201.9	1,169.0	1,132.9	1,036.3
Other	71.0	20.9	19.8	17.3	129.0	113.1	125.0	113.8	102.9
<b>Total Revenue</b>	<b>869.1</b>	<b>227.6</b>	<b>218.1</b>	<b>113.8</b>	<b>1,428.6</b>	<b>1,315.0</b>	<b>1,294.0</b>	<b>1,246.7</b>	<b>1,139.2</b>
<b>Expenses</b>									
Administration	199.7	64.0	56.7	28.9	349.3	314.2	313.9	300.7	281.0
Programs	645.4	161.5	158.7	87.0	1,052.6	985.8	969.1	917.8	842.1
Interest on LTD	10.8	1.2	0.5	0.1	12.6	13.1	13.3	13.3	11.2
Other	6.2	-	2.1	0.9	9.2	8.5	6.5	6.0	6.0
<b>Total Expenses</b>	<b>862.1</b>	<b>226.7</b>	<b>218.0</b>	<b>116.9</b>	<b>1,423.7</b>	<b>1,321.6</b>	<b>1,302.8</b>	<b>1,237.8</b>	<b>1,140.3</b>
Surplus (Deficit) before non-shareable expenses	7.0	0.9	0.1	(3.1)	4.9	(6.6)	(8.8)	8.9	(1.1)
Non-shareable expenses	12.6	2.3	0.5	0.5	15.9	17.7	24.7	29.8	21.5
<b>Deficit after non-shareable expenses</b>	<b>(5.6)</b>	<b>(1.4)</b>	<b>(0.4)</b>	<b>(3.6)</b>	<b>(11.0)</b>	<b>(24.3)</b>	<b>(33.5)</b>	<b>(20.9)</b>	<b>(22.6)</b>

Source: Audited Operating Fund Financial Statements.

Note: For comparative purposes, the 2002 to 2005 figures have been restated to include the Health and Community Services Boards, the St. John's Nursing Home Board and the Newfoundland and Labrador Cancer Treatment and Research Foundation as these boards became part of the Regional Integrated Health Authorities effective 1 April 2005 and are included in the 2006 figures.

---

## Monitoring Health Care Boards

---

### Operating deficits

As Figure 3 shows, total revenue at the boards has increased by \$289.4 million or 25% from \$1.139 billion in 2002 to \$1.429 billion in 2006. For the year ended 31 March 2006, Provincial plan revenue accounted for approximately 30% of the Provincial budget.

Figure 3 also shows that all 4 boards reported annual operating deficits for 2006 totalling \$11.0 million. Operating deficits ranged from \$400,000 for the Western Regional Integrated Health Authority to \$5.6 million for the Eastern Regional Integrated Health Authority.

Overall, the annual operating deficits reflected in Figure 3 peaked in 2004 at \$33.5 million and totalled \$11.0 million in 2006. One board (Labrador-Grenfell Regional Integrated Health Authority) had an operating deficit which was higher than that reported in 2005.

---

### Department's Response

---

#### ***Financial Position and Operating Results***

*The Department shares the concerns of the Auditor General regarding the financial position of the Regional Integrated Health Authorities (RHAs) in this province. Many other provinces and territories have been struggling with significant increases in health care operating costs in recent years, while the Federal Government has provided insufficient increases in funding to offset this growth.*

*It should be noted that the health care delivery system was restructured from fourteen (14) health boards to four (4) regional integrated health authorities effective April 2005. The new health authorities assumed the financial assets, liabilities, and revenue base from the merging entities at that time. The fiscal year 2005-06 represents the first year of operations under these new governance structures and management teams. It should be noted in this first year of operations, RHAs were focused on integration activities which included establishing organizational structures, recruiting positions, merging information systems, and establishing policies and processes for the merged entity. Despite these operational challenges and constraints, RHAs were able to achieve a combined surplus position (before non-shareable expenses) in their first year of operation.*

*One of the Department's four Strategic Directions is to “Improve Accountability and Stability” of the health care system. The Department continues to work with RHAs and other stakeholders to improve financial results and improve accountability of health authorities. Some initiatives being undertaken are as follows:*

- *Health Authorities are expected to take all reasonable measures to balance their budgets at the beginning of the fiscal year. RHAs are required to present a re-cast balanced budget plan against which they measure fiscal results throughout the year.*
- *Health Authorities have been implementing various measures towards improving their fiscal positions which include: restructuring administrative functions; implementation of “best practises” in various programs and services; improved management reporting and monitoring; maximization of revenue opportunities; effective cash management; and improved focus on evidence informed decision making.*
- *Health Authorities are required to report monthly financial operating results relative to budget to the Department throughout the fiscal year. Health Authorities are also required to submit relevant statistical information relative to operations. This information allows the Department to perform detailed analysis on operations as necessary.*
- *The Department continues to monitor the fiscal position of RHAs throughout the fiscal year to ensure RHAs are taking appropriate and reasonable measures to improve their overall financial position without compromising the quality of health care services and programs.*
- *The Department, RHAs and other stakeholders continue to improve the availability of comparable and consistent information required for planning, monitoring and evaluation purposes at the regional, provincial and national level. There are provincial and national committee structures leading this process.*
- *In Budget 2006 Government added over \$60 million to the province's four (4) health authorities base budgets to reflect increased operating costs and respond to program cost and utilization pressures.*

---

## Monitoring Health Care Boards

---

- *Finally, each C.E.O. of the four (4) RHAs must meet annual performance criteria on which their annual performance bonuses are based. A key element of this criteria is achieving balanced budgets on an annual basis based on an agreed set of indicators.*

*These initiatives are expected to improve the overall financial position of the Health Authorities in the future.*

---

## Monitoring Health Care Boards

---



## Highlights

Highlights of a review of the Department of Justice, Community Corrections Branch of the Adult Corrections Division, for the period 1 April 2003 to 31 December 2005.

### Why our Office Did this Review

We undertook a review of Community Corrections and its role in the delivery of community-based sentencing alternatives. The objectives of our review were to determine (a) compliance with the policies and procedures to manage community correctional services; (b) the adequacy of information systems to manage community correctional services; (c) compliance with contractual arrangements for providing community-based programming; and (d) compliance with relevant legislation.

### What our Office Recommends

Our Office recommends that the Department of Justice should:

- ensure compliance with its policies and procedures relating to case management including risk assessment and supervision of offenders.
- with regards to the computerized database: ensure timely and complete input of data, activate the report generating capabilities and provide staff training.
- with regards to community-based programming contracts: comply with Government's Consultant Guidelines and ensure that services paid for are received.
- ensure compliance with its policies and procedures relating to the Assistant Adult Probation Officers Program.

### What the Department Said

To provide balance to this report and to ensure full disclosure, the Department was asked to formulate a response to our findings and conclusions. The Department's response, verbatim, is included at the end of this report. Readers are encouraged to consider the Department's comments in this regard.

◆ ◆ ◆ ◆ ◆

To view the full report, refer to the web site [www.gov.nl.ca/ag/reports.htm](http://www.gov.nl.ca/ag/reports.htm). For more information, contact Nina Goudie, Director of Information Resources, 709-729-2346 or [ninagoudie@gov.nl.ca](mailto:ninagoudie@gov.nl.ca).

### Chapter 2, Part 2.11 DEPARTMENT OF JUSTICE Community Corrections

Adult Corrections Division

A significant responsibility of the Adult Corrections Division (Community Corrections Branch) is to administer, in accordance with court orders, any community-based sentencing directives. The two most common court orders administered by the Branch are probation orders and conditional sentence orders.

### What We Found

We identified issues with the Community Corrections Program in terms of:

- (a) Issues with case management
  - Forms not available: The Acknowledgement of Court Order forms were not always completed, as required by policy.
  - Inadequate risk assessment: The Branch was not adequately performing risk assessments of offenders. We found issues with risk assessments including some which were not completed within the required timeframe, completed incorrectly or never completed.
  - Inadequate case planning: We identified issues with case plans including plans that were not completed within the required timeframe or not completed at all, plans that did not adequately reflect the conditions in the order or target the relevant criminal factors, and plans that did not reflect the completion of a secondary risk assessment or a progress review.
  - Offenders not adequately supervised: There were significant issues with the Branch's supervision of offenders including insufficient supervision and insufficient documentation to determine whether the offender was being supervised properly. In addition, there were instances where there was no documentation on file to support the elimination of supervision.
  - Progress reviews: A progress review is required to be completed at the end of every 12 months for each offender under supervision for at least 12 months. The Branch is not always completing progress reviews in accordance with policy.

#### (b) Information system not fully utilized

Information contained in the System was not current. Reports produced in March 2006 indicated that a significant number of progress reviews, primary risk assessments and case plans were not completed. However, officials indicated that the System may not have been updated. Our review also found that not all report capabilities have been activated in the System, there has been no training provided to staff since 2002 and there is no training manual or user manual.

#### (c) Non-compliance with policy

The Department is not complying with Government's policy on the hiring of consultants because no public proposal calls were made and authority was not requested from the Lieutenant-Governor in Council for three contracts - each in excess of \$100,000.

#### (d) Payment for services not received

In terms of contractual arrangements, the Department paid for services that were never received. For example, the minimum number of contracted hours and/or sessions was not always delivered by the contractor.

#### (e) Insufficient information from contractors

The Department did not receive sufficient information from contractors to assess program delivery. As a result, the Department could not evaluate contractor performance.

#### (f) Other issues

We also identified issues with the lack of verification of monthly invoices and lack of information to determine whether the Assistant Adult Probation Officers program was functioning as intended.



### Introduction

---

#### Overview

A significant responsibility of the Adult Corrections Division (Community Corrections Branch) of the Department of Justice (the Department) is to administer, in accordance with court orders, any community-based sentencing directives. The two most common court orders administered by the Community Corrections Branch are probation orders and conditional sentence orders. Its role in this regard is as follows:

- **Probation** - monitoring offenders who are subject to court-imposed conditions over a specific period of time for the purposes of protecting society and for facilitating the offender's re-integration into the community; and
- **Conditional Sentence** - monitoring offenders who serve their sentence in the community, usually in their homes, and assess offender compliance with specific court-imposed conditions for the purpose of protecting society.

Information obtained from the Department indicated that during the period 1 April 2003 to 31 December 2005, there were 5,511 probation orders and 1,205 conditional sentence orders entered into its system.

The Department also administers programs such as the Assistant Adult Probations Officer Program to help expand community corrections throughout the Province and various community-based programming initiatives to assist offenders reintegrate safely into society and reduce the risk of re-offending.

#### Community Corrections

At the time of our review in April 2006, Community Corrections had 14 regional offices located throughout the Province with a total of 47 staff, 35 of whom were Adult Probation Officers. In addition, there were 8 Assistant Probation Officers hired on a fee-for-service basis to provide services to remote communities which are otherwise difficult to service.

---

#### Expenditures

Expenditures for the Community Corrections Branch for 2006 totalled \$3.6 million (2005 - \$3.5 million).

---

### Objective and Scope

---

#### Objectives

The objectives of our review were to determine:

- compliance with the policies and procedures to manage community correctional services;
- the adequacy of information systems to manage community correctional services;
- compliance with contractual arrangements for providing community-based programming; and
- compliance with relevant legislation.

#### Scope

Our review covered the operation of Community Corrections and its role in the delivery of community-based sentencing alternatives for the period 1 April 2003 to 31 December 2005. We completed our review in April 2006.

---

### Conclusions

---

We identified issues with the Community Corrections Program. For example, not all offenders are being assessed for risk to re-offend and are not always supervised in accordance with Program guidelines. In particular:

#### 1. Case Management

#### Forms not available

An Acknowledgement of Court Order form is to be completed and signed by an offender to document their acknowledgement and understanding of the conditions of the court order. The Branch is not ensuring that these forms are completed. During our examination of records relating to 66 offenders, the Department could not provide completed forms for 16.

---

### **Inadequate risk assessment**

The Branch's risk assessment of offenders referred by court order is essential in determining the required level of supervision. The Branch is not adequately performing risk assessments of offenders. During our examination of the risk assessment process related to 66 offenders we found issues with 11. Issues with risk assessment included 9 which were not completed within the required time frame, 1 which was never completed and 1 (a property offence) which was completed incorrectly, resulting in a medium risk level instead of high and therefore less supervision than required.

---

### **Inadequate case planning**

Case planning is required to determine the role of the Branch and the offender in complying with the requirements of the provisions of the orders. The Branch is not doing a good job in developing case plans. Our review of case plans relating to 66 offenders identified issues with 24. Issues included 16 which did not adequately reflect the conditions in the order or target the relevant criminal factors, 3 which were never completed, 3 which did not reflect the completion of a secondary risk assessment, 1 which did not reflect the completion of a progress review and 1 which was not completed within the required timeframe.

---

### **Offenders not adequately supervised**

Supervision of offenders is critical to monitor compliance with and enforce conditions imposed by the court. There are significant issues with the Branch's supervision of offenders. Our review of the supervision process relating to 66 offenders identified issues with 19. Issues included 17 with insufficient supervision (1 sexual assault, 2 domestic assaults, 3 other assaults, 6 property offences, 3 traffic offences and 2 drug offences), 1 where the selected supervision for a domestic assault offence was lower than required and 1 where documentation was insufficient to determine whether the offender was being supervised properly.

In addition, we reviewed 33 offenders designated as administratively inactive and no longer being supervised and found that there was no documentation on file to support the elimination of supervision for 5 offenders.

---

### **Progress reviews not completed as required**

A progress review is required to be completed at the end of every 12 months for each offender under supervision for at least 12 months. The Branch is not always completing progress reviews in accordance with policy. During our examination of progress reviews related to 66 offenders, we found issues with 5. Issues included 4 which were not completed within the required time frame and 1 which was never completed.

---

### 2. Information System

#### Information system not fully utilized

The Provincial Correctional Offender Management System is a real-time computerized system through which the Branch can enter information and document the progress of individual offenders through the case management process. We identified the following issues:

- Information contained in System reports was not current. Reports produced by the System in March 2006 indicated that the following were not completed - 103 progress reviews, 64 primary risk assessments and 70 case plans. Although some of these may have been completed, officials indicated that the System may not have been updated. As a result, management does not have access to complete information.
- While staff have access to specific reports concerning case management, the System has a limitation in that not all report capabilities have been activated for use in the overall case management process. Therefore, reports have to be produced by IT personnel.
- The only formal training was upon implementation of the program in 2002, provided to staff in the Branch at that time. In addition, there is no training manual or user manual.

---

### 3. Contractual Arrangements

The Department has entered into four contracts with service providers (John Howard Society and Stella Burry Corporation) to deliver a learning resources program in St. John's, a community based intervention program in Corner Brook and Stephenville, a community re-integration program in St. John's, and a residential addictions treatment program in St. John's. Our review identified the following issues:

#### Non-compliance with policy

- The Department is not complying with Government's policy on the hiring of consultants because no public proposals calls were made and authority from the Lieutenant-Governor in Council for three contracts in excess of \$100,000 was not requested.

#### Payment for services not received

- The Department paid for services that were never received. For example, the minimum number of contracted hours and/or sessions was not always delivered.

### **Insufficient information from contractors**

- The Department did not receive sufficient information from contractors to assess program delivery. As a result of the reports not being received or not containing program results, the Department could not evaluate contractor performance.
- 

#### **4. Other Issues**

### **Overpayment of invoices**

The Department of Justice leases the equipment required to provide the Electronic Monitoring Program and is required to make monthly payments in accordance with the lease contract. However, the Department is not verifying the accuracy of monthly invoices. We found that, during the period November 2003 to October 2005, the Department overpaid the contractor by \$5,466. The Department was not aware of the overpayment until advised by my Office, but has since made provisions to recover the overpayment.

---

### **Non-compliance with policies and procedures**

The Department is unable to determine whether the Assistant Adult Probation Officers Program is functioning as intended because of the lack of information to determine compliance with established policies and procedures relating to recruitment (e.g. resumes and criminal record checks) and responsibilities of the officers (e.g. filing monthly reports and performance assessments).

---

### **Findings**

During 2002, the Department completed a policy and procedure manual for the Community Corrections Division. The Department also implemented a Provincial Correctional Offender Management System (PCOMS), which is an electronic real-time tool used by Adult Probation Officers for the completion of all components of case management.

---

In April 2006 we completed our review of Community Corrections covering the period 1 April 2003 to 31 December 2005.

This report provides our findings in the following four areas:

1. Case Management
  2. Information System
  3. Contractual Arrangements
  4. Other Issues
- 

### 1. Case Management

---

#### Background

The Department of Justice uses a case management approach to administer community-based sentencing alternatives. The goals of case management include to:

- assess the risk of the offender re-offending to determine the appropriate level of supervision;
  - develop a case plan in consultation with the offender; and
  - help change the offender's behavior and reduce the risk of re-offending.
- 

Case management includes intake and risk assessment, case planning, supervision and progress reviews.

*Intake and risk assessment:* Once a probation order or a conditional sentence order is issued to an offender, an Adult Probation Officer (APO) is assigned to the case. The APO interviews the offender, conducts a risk assessment, compiles contact information, has the offender sign an Acknowledgement of Court Order form, and ensures that all documents are placed in the offender's file. The APO must complete the intake process within 30 working days of being assigned to a probation case and within 5 working days of being assigned to a conditional sentence case.

The risk assessment is intended to identify factors that contributed to the offender's criminal behaviour and assess the offender's risk to re-offend and helps the APO determine the appropriate level of supervision. A primary risk assessment is conducted when the offender is admitted into the correctional system, with a secondary risk assessment required when the offender has a history of assault convictions or exhibits violent behavior during admission.

*Case planning:* During the intake interview, the APO and the offender also develop a preliminary case plan. It reflects the conditions in the probation or conditional sentence order and the actions required of both the APO and the offender to mitigate the risk of re-offending. It must also target the offender's criminal risk factors. The case plan is required to be completed by the APO within 30 working days of the intake interview and updated upon completion of a progress review or a secondary risk assessment.

*Supervision:* Supervision is an integral part of case management to monitor compliance with and, if necessary, enforce the conditions imposed by the Court. The APO determines the level of supervision using a risk assessment tool in conjunction with the prescribed supervision standard.

*Progress reviews:* A progress review is required to be completed at the end of every 12 months for each offender under supervision for at least 12 months. A progress review is also required to be completed if an offender exhibits a change in behavior or completes a rehabilitative program.

---

Our review of case management at the Department focused on a sample of 66 offenders - 33 were subject to a probation order and 33 were subject to a conditional sentence order. For each of these 66 offenders, we assessed compliance with the policies and procedures and our findings are outlined in the following sections.

---

### **Inadequate risk assessment**

#### **A. Intake and Risk Assessment**

We identified issues with 11 risk assessments as follows:

- 1 resulted in assignment of a medium risk level, however the assessment score indicated a high risk, therefore they did not receive the proper level of supervision;

- 1 was not completed and therefore it is not known if the offender received the appropriate level of supervision; and
- 9 risk assessments were not completed within the required time frame (5 probation orders - within 30 working days and 4 conditional sentence orders - within 5 working days) ranging from 1 day late to 71 days late.

We also found that 16 Acknowledgement of Court Order forms were not completed as required.

---

### Inadequate case planning

#### B. Case Planning

We identified issues with 24 case plans as follows:

- 16 did not adequately reflect either the conditions outlined in the order or the relevant criminal factors;
- 3 were not completed;
- 3 were not updated to reflect completion of a secondary assessment;
- 1 was not updated to reflect completion of a progress review; and
- 1 was not completed until 33 days after the required 30 working day time frame.

As a result, these offenders may not have received the proper level of supervision.

---

#### C. Supervision

Figure 1 defines the standards for supervision of offenders subject to a probation order or a conditional sentence order.

---



**Figure 1**

**Standards used to Determine the Level and Mode of Supervision**

<b>Type of Order: Probation</b>		
<b>Risk to Re-offend</b>	<b>Supervision Level</b>	<b>Supervision Mode</b>
High	Maximum	- One face-to-face meeting each month; and - One other supervision mode.
Medium	Moderate	- One face-to-face meeting every two months; and - One other supervision mode.
Low	Minimum	- Immediate administratively inactive, or - One face-to-face meeting every three months while conditions place prior to designating as administratively inactive.
<b>Type of Order: Conditional Sentence</b>		
<b>Risk to Re-offend</b>	<b>Supervision Level</b>	<b>Supervision Mode</b>
High	Maximum	With Electronic Surveillance - One random home visit every 15 days; - One additional monthly face-to-face; and - One other mode per month.
		Without Electronic Surveillance - One random home visit every 15 days; - One additional monthly face-to-face; - One other mode per month; and - Two phone calls per week.
Medium	Moderate	- Two monthly face-to-face meetings (one must be a home visit); - One other mode per month; and - One weekly phone call.
Low	Minimum	- One initial home visit; - One face-to-face per month; and - One phone call per week.

Source: Department of Justice

### **Supervision not consistent with policy**

We identified the following 19 instances where supervision was either inadequate or documentation was insufficient to determine whether the offender was being supervised properly:

- 4 offenders were assessed as high risk but supervised less than required for maximum supervision;
- 10 offenders were assessed as medium risk but supervised less than required for moderate supervision;
- 3 offenders were assessed as low risk but supervised less than required for minimum supervision;
- 1 offender, assessed as a medium risk to re-offend, was required to be supervised at a maximum level of supervision due to the nature of the offense (domestic assault). However, that offender was only supervised at a medium level of supervision; and
- 1 offender where documentation was insufficient to determine whether the offender was being supervised properly.

We also identified 1 instance where the level of supervision was more than required.

Details on our findings relating to supervision of these 20 offenders are outlined in Figure 2.

---

Figure 2

Supervision Findings by Offence Type

	Court Order	Offense type	Risk to Re-offend	Supervision			
				Insufficient	Incorrect Level Selected	Insufficient Info to Assess	Excessive
1	PO	Assault	Medium	X			
2	PO	Assault	High	X			
3	PO	Property	Medium	X			
4	PO	Highway Traffic Act				X	
5	PO	Highway Traffic Act	Medium	X			
6	PO	Cruelty to Animals	Low				X
7	PO	Domestic Assault	High	X			
8	PO	Highway Traffic Act	Medium	X			
9	PO	Property	Medium	X			
10	CSO	Highway Traffic Act	Low	X			
11	CSO	Domestic Assault	High	X			
12	CSO	Property	Medium	X			
13	CSO	Assault	Medium	X			
14	CSO	Narcotics	Medium	X			
15	CSO	Sexual Assault	High	X			
16	CSO	Domestic Assault	Medium		X		
17	CSO	Narcotics	Low	X			
18	CSO	Property	Medium	X			
19	CSO	Property	Low	X			
20	CSO	Property	Medium	X			
<b>Totals</b>				<b>17</b>	<b>1</b>	<b>1</b>	<b>1</b>

Source: Department of Justice

### Unsupported elimination of supervision

Although all administratively active offenders are required to be supervised, offenders can be designated by the APO as administratively inactive whereby supervision is no longer required. In order to designate offenders assessed at medium or high risk to re-offend as administratively inactive, the APO has to complete progress reviews to support the reduction in supervision.

Of the 351 offenders designated as administratively inactive as at December 2005, we selected 33 to determine whether there was adequate support for the designation. We found issues with 6 files as follows:

- for 5 offenders who were being supervised (1 high risk and 4 medium risk), the required progress reviews were not on file to support the designation as administratively inactive; and
- for 1 offender, documentation was insufficient to determine whether the offender was ever supervised at the appropriate level.

Therefore, there was no documentation on file to support the elimination of supervision for 5 offenders and insufficient documentation to support any level of supervision for the 6<sup>th</sup> offender. Officials indicated that these offenders should not have been designated administratively inactive.

---

### Progress reviews not completed as required

#### D. Progress Reviews

We identified issues with 5 progress reviews as follows:

- 1 progress review was not completed; and
- 4 progress reviews were not completed until 28 to 110 days after the required 12 month period.

As a result, these offenders may not have received the proper level of supervision.

---

### 2. Information System

---

The Provincial Correctional Offender Management System (PCOMS) is a computerized database that was implemented in 2002 as part of the case management system used by the Department of Justice. Case management applies to offenders who are subject to probation orders or conditional sentence orders. Its goals are to assist Adult Probation Officers:

- gather information and complete assessments to help manage the offender;
- develop plans in consultation with the offender; and
- help change the offender's behavior and reduce the risk of re-offending.

The PCOMS provides Adult Probation Officers with a real-time computerized system through which they can enter information and document the progress of individual offenders through the case management system.

---

#### **Inadequate report writing function**

In addition to maintaining information on each offender, the PCOMS also contains a report feature whereby a summary list for any aspect of the case management system can be generated. However, officials indicated that not all the report capabilities on the system have been activated.

Our review of available reports identified the following issues:

- Information contained in System reports was not current. Reports produced by the System in March 2006 indicated that the following were not completed - 103 progress reviews, 64 primary risk assessments and 70 case plans. Although some of these may have been completed, officials indicated that the System may not have been updated. As a result, management does not have access to complete information.
  - While staff have access to specific reports concerning case management, the System has a limitation in that not all report capabilities have been activated for use in the overall case management process. Therefore, reports have to be produced by IT personnel.
-

### No training or user manuals

Officials of the Community Corrections Branch informed us that staff received training on the PCOMS when the new program was implemented in 2002. However, there has been no formal training provided to staff since that time. In addition, neither a training manual nor a user manual has been developed. As a result, the only training provided to new staff on PCOMS has been provided by other staff on an individual basis.

---

## 3. Contractual Arrangements

---

The Department of Justice provides community-based programs for offenders to assist with their safe re-integration into society and to reduce the risk of re-offending. For example, group and individual counseling are available in criminal behaviour, anger management, substance abuse, and specialized programs directed towards male violence and sex offenders.

---

### Delivery of programs

The Department has entered into four contracts with the following two service providers:

- the John Howard Society to administer the following 3 programs:
  - Learning Resources Program located in St. John's (\$371,000);
  - West Coast Council Community-Based Intervention Program located in Corner Brook and Stephenville (\$107,400);
  - A fee-for-service contract to provide residential addictions treatment for selected offenders at the Howard House located in St. John's (\$112,000).
- the Stella Burry Corporation to administer a community re-integration program in St. John's including residential services to adult offenders with special needs (\$70,000).

We examined each of the contracts in effect for the period 1 April 2003 to 31 December 2005 to assess compliance with the contract as well as with relevant Provincial legislation. We identified the following issues relating to these contracts.

---

### **Non-compliance with policy**

In 3 contracts, the Department did not comply with Government's policy on the hiring of consultants because there was never a public proposal call (Learning Resources Program, Howard House and Stella Burry Corporation). Although there was a public proposal call in the 1997 fiscal year for the 4<sup>th</sup> contract (West Coast Council Community-Based Intervention Program), there have been no further proposal calls and the contract has been renewed annually. Furthermore, in the 3 contracts in excess of \$100,000 (Learning Resources Program, Howard House and the West Coast Council Community-Based Intervention Program) the required authority was not requested from the Lieutenant-Governor in Council.

---

### **Payment for services not received**

For the contract related to the Learning Resources Program, the Department paid for services that were never received. Details are as follows:

#### 2004

- The minimum number of contracted hours was not delivered by the contractor for 1 program. Only 40.75 hours were delivered under the Intermittent Sentence Workshops but 70 hours were required.
- The minimum number of contracted program sessions for the Intermittent Sentence Workshop was not delivered by the contractor. Only 3 of the 5 required sessions were delivered.

#### 2005

- The minimum number of contracted program sessions was not delivered for the Intermittent Sentence Workshop. Only 3 of the 5 required sessions were delivered.
  - The minimum number of contracted program sessions was not delivered for the Options and Alternative Skills for Interpersonal Safety Program. Only 4 of the 5 required sessions were delivered.
-

### Departmental Assessment

#### Insufficient information provided by contractors

The Department did not receive sufficient information from contractors to assess program delivery. Details are as follows:

- Reports required to be submitted by the Stella Burry Corporation were not submitted to the Department for either 2004 or 2005.
- Reports received from the John Howard Society for 2004 and 2005 relating to the Learning Resources Program and the West Coast Council Community-Based Intervention Program contracts did not contain all required information such as statistics identifying the number of hours provided and the number of sessions delivered.

As a result of the reports not being received or not containing program results, the Department could not evaluate contractor performance. Furthermore, Department officials indicated that there was no formal process in place to assess contractor compliance.

---

## 4. Other Issues

---

#### Overpayment of invoices

##### A. Electronic Monitoring Program

The Electronic Monitoring Program is a community-based sentencing alternative that can be included in a conditional sentencing order. Under the contract, the Department must pay a monthly fee for lease of the electronic monitoring equipment required for use in the Program.

We reviewed the payments totalling \$458,558 made by the Department for electronic monitoring equipment leased during the period 1 April 2003 to 31 December 2005. Our review identified that the Department was invoiced and paid for more than the contracted amount.

For 24 invoices paid during November 2003 to October 2005 totalling \$352,480, the Department paid the full invoice amount; however according to the contract they should have only paid \$347,014. As a result, the Department overpaid the contractor by \$5,466. The Department was not aware of the overpayment until advised by my Office, but has since made provisions to recover the overpayment.

---



### Purpose of program

#### B. Assistant Adult Probation Officer Program

In an effort to expand community corrections throughout the province, the Department has implemented the Assistant Adult Probation Officer Program (the Program). This program is available to select rural communities where geographic isolation and workload demands prohibit the Regional Adult Probation Officer (RAPO) from providing effective service delivery. At the time of our review, there were 8 Assistant Adult Probation Officers (AAPO) participating in the Program.

During 2002, the Department completed a policy and procedure manual for the Community Corrections Division. As part of our review, we assessed compliance with these policies and procedures, including the following three areas.

- recruitment and training;
- responsibilities of the Assistant Adult Probation Officer (AAPO); and
- responsibilities of the Regional Adult Probation Officer (RAPO).

Our review indicated that the Department is unable to determine whether the Program is functioning as intended because of the lack of evidence to determine compliance with established policies and procedures relating to recruitment and responsibilities of both the Assistant Adult Probation Officers and Regional Adult Probation Officers. Details are as follows:

### No information as to compliance

#### *Recruitment and training*

We examined 10 files to determine compliance with established policies and procedures and identified the following:

- 8 files contained no information as to whether the required selection interview was being performed by the RAPO;
- 7 files contained no information as to whether the required 3 reference checks were being conducted for the recruited AAPO;
- 7 files contained no information as to whether the required criminal record check was completed on the recruited AAPO;

- 6 files contained no information as to whether the recruited AAPO was a local resident as required; and
- 6 files contained no information as to whether a resume was provided by the AAPO as required.

In addition, each AAPO is required to sign an Assistant Adult Probation Officer Agreement for Contractual Services for each 1-year term. Of the 10 files we examined, there should have been 26 signed agreements in total. We determined that 19 agreements had not been completed. Of the 7 signed agreements that had been completed, 2 did not specify the term of the agreement.

---

### Monthly reports not submitted

#### *Responsibilities of the Assistant Adult Probation Officer*

We reviewed the files for the 10 AAPOs to assess compliance with responsibilities identified in the policy and procedure manual. The AAPO is required to complete a Monthly Program Activity Report and forward it to the supervising RAPO. During the 30 months from 1 April 2003 to 31 December 2005, 256 reports were required to have been submitted.

Our review determined that 117 reports had been submitted; 139 reports had not been submitted.

---

### Activities not documented

#### *Responsibilities of the Regional Adult Probation Officer*

The RAPOs are responsible for monitoring the work of the AAPOs in their region. The RAPOs must:

- ensure that the AAPO receives a copy of the Community Corrections policy and procedure manual and a current copy of the Criminal Code of Canada;
- conduct a monthly consultation with the AAPO;
- perform an annual job performance assessment of the AAPO;
- arrange for payment of services rendered by the AAPO; and
- forward copies of the Monthly Program Activity Report submitted by the AAPO to Division headquarters.

The Department was unable to provide any documentation to confirm that these tasks were completed. As a result, the Department could not demonstrate that the RAPOs met their responsibilities in overseeing the AAPOs in their region.

---

### Recommendations

---

*The Department of Justice should:*

- *ensure compliance with its policies and procedures relating to case management including risk assessment and supervision of offenders.*
  - *with regards to the computerized database:*
    - *ensure timely and complete input of data;*
    - *activate the report generating capabilities; and*
    - *provide staff training.*
  - *with regards to community-based programming contracts:*
    - *comply with Government's Consultant Guidelines;*
    - *ensure that services paid for are received.*
  - *ensure compliance with its policies and procedures relating to the Assistance Adults Probation Officers Program.*
- 

### Department's Response

---

*The following is the response to the Auditor General's Report on Community Corrections.*

#### ***Recommendation 1***

*The Department of Justice should ensure compliance with its policies and procedures relating to case management, including risk assessment and supervision of offenders.*

### **Response**

*Even though significant strides continue to be achieved in the case management of offenders under community supervision, the Department does recognize that there has not been full compliance with policy standards. These issues will be addressed through enhanced monitoring of performance as well as the implementation of a new offender risk assessment instrument which will create a more formalized linkage between risk assessment and case planning.*

### **Recommendation 2**

*The Department should, with regards to the computerized database:*

- *ensure timely and complete input of data.*
- *activate the report generating capabilities*
- *provide staff training.*

### **Response**

*The Provincial Correctional Offender Management System (PCOMS) was developed initially as a case management system to meet the most immediate needs of the Department. Having accomplished that objective, standard and management report capabilities will be further developed in consultation with the Office of the Chief Information Officer.*

### **Recommendation 3**

*The Department should, with regards to community-based programming contracts:*

- *comply with Government's Consultant Guidelines.*
- *ensure that services paid for are received.*

### ***Response***

*The Department has, through the Government Purchasing Agency, filed reports with the House of Assembly, verifying that the John Howard Society and the Stella Burry Corporation are deemed to be sole source contractors. The Department will further comply with Government's Consultant Guidelines by seeking authority from the Lieutenant Governor-in-Council for these contracts. Additionally, a mechanism will be implemented to ensure that changes in service delivery are reflected in contract amendments and that payment is only made for services delivered.*

### ***Recommendation 4***

*The Department of Justice should ensure compliance with its policies and procedures relating to the Assistant Probation Officers Program.*

### ***Response***

*The Department agrees with this recommendation and will undertake a review of its policies and procedures relevant to the Assistant Probation Officer Program.*

---

←

---

## Community Corrections

---



# Highlights

Highlights of a firearms review of the Royal Newfoundland Constabulary for 2005 and 2006.

## Why our Office Did this Review

The objectives of the review were to:

- (i) determine whether the RNC has adequate systems in place to record, monitor and secure its firearms inventory. This included determining, as recommended by the Select Committee, whether sidearms are stored in a secure locker at the station when members are not on duty;
- (ii) determine whether the Firearms Policy covered all relevant issues pertaining to the use and control of firearms; and
- (iii) determine whether the RNC has adequate procedures to monitor members' compliance with the Firearms Policy and where appropriate, test compliance with this Policy.

## What our Office Recommends

Our Office recommends that the Royal Newfoundland Constabulary should comply with established policy.

## What the RNC Said

To provide balance to this report and to ensure full disclosure, the RNC was asked to formulate a response to our findings and conclusions. The RNC's response, verbatim, is included at the end of this report. Readers are encouraged to consider the RNC's comments in this regard.



To view the full report, refer to the web site [www.gov.nl.ca/ag/reports.htm](http://www.gov.nl.ca/ag/reports.htm). For more information, contact Nina Goudie, Director of Information Resources, 709-729-2346 or [ninagoudie@gov.nl.ca](mailto:ninagoudie@gov.nl.ca).

## Chapter 2, Part 2.12

### ROYAL NEWFOUNDLAND CONSTABULARY

The Royal Newfoundland Constabulary (RNC) is responsible for policing three regions of the Province – the Northeast Avalon, Corner Brook, and Labrador West. The population of these regions is approximately 201,000 (2001 Census). In providing these services, the RNC currently employs 353 police members and 85 civilian staff. In 1998, members of the RNC were permitted to wear firearms as part of their regular uniform. The Select Committee of the House of Assembly which recommended the new arming policy also recommended that a firearms audit be performed annually and submitted to the House of Assembly. As a result, this is the 8<sup>th</sup> year our Office has reviewed firearms at the RNC.

### What We Found

Although the RNC has adequate systems in place to record, monitor and secure its firearms, each year we identify instances of non-compliance with policy. Given the serious repercussions that could result from the use of firearms, it is critical that the RNC continue efforts to improve compliance with established policies and procedures.

#### (a) Firearms and ammunition inventory not accurate

The firearms and ammunition inventory system is not accurate because not all required adjustments, including additions, dispositions or internal re-assignments of firearms and ammunition, are made on a timely basis. For example, in 2006 we found that 38 handguns and 3 rifles were not recorded in the inventory system and for 5 types of ammunition, the physical count did not agree to what was recorded in the inventory system. In the case of 40 calibre training ammunition, 9,012 rounds could not be accounted for.

#### (b) Firearms Policy infractions not being properly followed up

Members are not always complying with the Firearms Policy. Information identified during our review and from inspections performed by the RNC indicated a total of 221 infractions for the period November 2004 to November 2006. Furthermore, we found that not all infractions are being referred to the RNC's Professional Standards Section for investigation as required.

#### (c) Monthly inspections of firearms storage lockers not performed

The required monthly inspections of firearms storage lockers were not always performed.

#### (d) Personnel and equipment inspections not properly reported

RNC policy requires that all personnel and equipment be inspected a minimum of twice per year by the Inspections Officer or Non-Commissioned Officers and that a report on the results of these inspections be provided to the Chief of Police. The Inspections Officer indicated that only one inspection was done for the St. John's area and Corner Brook in 2006, the results of which were reported to the Chief of Police in December 2006.

#### (e) Training not being completed as required and database not accurate

The RNC is not complying with its policy for use of force training. For example, a total of 173 members as of 31 December 2005 and 121 members as of 8 November 2006 had not re-qualified in the use of firearms in the required one year time frame. In addition, the training database is neither complete nor accurate.

#### (f) Use of Force Review Board not active

Although the Use of Force Review Board is required to review all instances of use of force, the Board had not met from October 2002 until September 2006. Between October 2004 and September 2006, there were 1,277 use of force incidents reported, 141 which related to firearms.

#### (g) No Select Committee in place to review arming policy

In 1998, a Select Committee of the House of Assembly recommended that the arming policy be reviewed at the end of five years, i.e. March 2003. As at December 2006, no Select Committee had been established to review the arming policy of the RNC.

### Introduction

---

#### Background

The Royal Newfoundland Constabulary (RNC) was established in 1871 and operates under the authority of the *Royal Newfoundland Constabulary Act, 1992* and *Regulations*. The Chief of Police, appointed by the Lieutenant-Governor in Council, is responsible for the RNC's general control and administration, and reports to the Minister of Justice and Attorney General. The RNC's mission is to work with the people of Newfoundland and Labrador to foster safe communities by providing quality, professional, accessible, timely and fair police services to all.

The RNC is responsible for policing three regions of the Province - the Northeast Avalon, Corner Brook, and Labrador West. The population of these regions is approximately 201,000 (2001 Census). In providing these services, the RNC currently employs 353 police members and 85 civilian staff.

On 2 December 1997, a Select Committee of the House of Assembly was appointed to enquire into the arming policy of the RNC and report its findings to the House of Assembly by 31 March 1998. The Select Committee conducted research, viewed presentations by interested parties and held public hearings. The Committee tabled its report to the House of Assembly on 31 March 1998. The report recommended that the arming policy of the RNC be amended to permit members on operational duty to wear side arms as part of their regular uniform.

The Committee further recommended that:

- the Chief of Police have discretion in the administration of the policy including discretion in assigning officers to operational duty;
- police officers' sidearms be stored in a secure locker at the station when they are not on duty;
- a firearms audit acceptable to the Minister of Justice be performed annually and submitted to the House of Assembly; and
- the arming policy be reviewed at the end of five years by a Select Committee of the House of Assembly (i.e. 31 March 2003).



As a result of the recommendations of the Select Committee on the Arming Policy of the RNC, members on operational duty were permitted to wear sidearms commencing 14 June 1998. To provide specific direction to members on the control and usage of firearms, a Firearms Policy was also issued at this time. Figure 1 outlines the number of firearms maintained by the RNC as of October 2006.

---

**Figure 1**

**Royal Newfoundland Constabulary  
Number of Firearms  
October 2006**

<b>Type of Firearm</b>	<b>Northeast Avalon</b>	<b>Corner Brook</b>	<b>Labrador West</b>	<b>Total</b>
Hand Guns	315	64	46	<b>425</b>
Shotguns	40	6	8	<b>54</b>
Rifles	122	0	6	<b>128</b>
<b>Total</b>	<b>477</b>	<b>70</b>	<b>60</b>	<b>607</b>

Source: RNC Inventory System

---

## **Audit Scope and Objectives**

---

### **Scope**

One of the recommendations of the Select Committee on the Arming Policy of the Royal Newfoundland Constabulary was that a firearms audit acceptable to the Minister of Justice be performed annually and submitted to the House of Assembly. To comply with this recommendation, the Chief of Police has again requested that my Office conduct an audit of firearms for 2005 and 2006.

---

### Objectives

The objectives of the review were to:

- Determine whether the RNC has adequate systems in place to record, monitor and secure its firearms inventory. This included determining, as recommended by the Select Committee, whether sidearms are stored in a secure locker at the station when members are not on duty.
  - Determine whether the Firearms Policy covered all relevant issues pertaining to the use and control of firearms.
  - Determine whether the RNC has adequate procedures to monitor members' compliance with the Firearms Policy and where appropriate, test compliance with this Policy.
- 

### Conclusions

---

#### Introduction

In 1998, members of the Royal Newfoundland Constabulary (RNC) were permitted to wear firearms as part of their regular uniform. The Select Committee of the House of Assembly which recommended the new arming policy also recommended that a firearms audit be performed annually and submitted to the House of Assembly. As a result, this is the eighth year my Office has reviewed firearms at the RNC.

Although the RNC has adequate systems in place to record, monitor and secure its firearms, each year we identify instances of non-compliance with policy. Given the serious repercussions that could result from the use of firearms, it is critical that the RNC continue efforts to improve compliance with established policies and procedures.

---

#### Firearms and ammunition inventory not accurate

The firearms and ammunition inventory system is not accurate because not all required adjustments, including additions, dispositions or internal re-assignments of firearms and ammunition, are made on a timely basis. For example, in April 2005 the RNC converted to a new inventory system for firearms, ammunition and other policing equipment. At the time of the conversion 9 handguns and 3 rifles were deleted from the system in error. As of October 2006, 5 of these handguns and the 3 rifles still have not been re-entered into the system. In 2006 we found that an additional 33 handguns were not recorded in the inventory system. In addition, in 2006

we found 41 firearms which were in a location other than that recorded in the system and for 5 types of ammunition, the physical count did not agree to what was recorded in the inventory system. In the case of 40 calibre training ammunition, 9,012 rounds could not be accounted for.

Many of the firearm assignments in the main inventory system in St. John's, for members located in Corner Brook and Labrador West, were inaccurate when compared to information supplied by these two divisions. In particular, of the 51 handguns located in Corner Brook at the time of our count in February 2006, we found that in 26 instances the assignment indicated in the inventory system did not agree to the information supplied by the Corner Brook Division.

**Firearms Policy  
infractions not  
being properly  
followed up**

Members are not always complying with the Firearms Policy. Information identified during our review and from inspections performed by the RNC indicated a total of 221 infractions for the period November 2004 to November 2006. Infractions are as follows:

- 3 instances where loaded firearms were stored in lockers;
- 53 instances where the amount of ammunition in the lockers did not agree with the inventory system;
- 56 instances where pepper spray was not stored in the member's locker;
- 5 instances where pepper spray was in the locker even though the member was on duty;
- 4 instances where members were observed loading/unloading their firearm without using the port located in the firearms locker room;
- 15 instances where a member's locker was empty even though they were not on duty; and
- 85 instances where firearm storage lockers were empty; however, there was no indication on the final resolution as to whether the member may have been on duty.

Furthermore, we found that not all infractions are being referred to the RNC's Professional Standards Section for investigation as required.

**Monthly inspections of firearms storage lockers not performed**

The required monthly inspections of firearms storage lockers are not always performed. No monthly inspections were done in St. John's and area in 2005 for the months of January, February, April, May, July, August, October and November and in 2006 for the months of January, February, April, May, July, August, September and November. As well, in December 2004, June 2005 and September 2005, there was no indication that the lockers in the Tactics and Rescue Unit's Room were included in the inspections. In addition, monthly inspections were not performed in Corner Brook in 2005 for the months of April, May, July and August. While there have been no changes to the RNC's Firearms Policy as to frequency of inspections, RNC officials have indicated that the number of inspections have been reduced from monthly to quarterly for St. John's and area. The Corner Brook and Labrador West divisions continue to do monthly inspections.

---

**Personnel and equipment inspections not properly reported**

RNC policy requires that all personnel and equipment be inspected a minimum of twice per year by the Inspections Officer or Non-Commissioned Officers and that a report on the results of these inspections be provided to the Chief of Police. The Inspections Officer indicated that only one inspection was done for the St. John's area and Corner Brook in 2006, the results of which were reported to the Chief of Police in December 2006. The report also included findings on the two inspections performed in Labrador West during 2006. We were informed that the required inspections for 2005 were completed but a report to the Chief of Police was never prepared.

---

**Training not being completed as required and database not accurate**

The RNC is not complying with its policy for use of force training. A total of 173 members as of 31 December 2005 and 121 members as of 8 November 2006 had not re-qualified in the use of firearms (module 1) in the required one year time frame and of the 121 members not trained in tactical room entries/weapons retention (module 3) as of 31 December 2005, 75 members as of 8 November 2006 have still not completed the training. Furthermore, it is unlikely, based on prior years' performance that all 186 members still requiring training on the use of force continuum (module 4) will receive this training by 31 December 2006 as required.

In addition, we determined that information in the training database is neither complete nor accurate. Of particular concern is that, as the system is used to determine what use of force training has already been provided and what training is left to be provided, inaccuracies may result in a situation where a member may not receive all of the necessary use of force training.

---

### Use of Force Review Board not active

Although the Use of Force Review Board is required to review all instances of use of force, the Board had not met from October 2002 until September 2006. Two other meetings have been held since then. Furthermore, although all Board members used to receive copies of the use of force reports, this practice was discontinued after May 2002. Instead, only one member of the Board, the Firearms and Use of Force Instructor, receives the reports. In fact, the focus of the recent meetings of the Board is to review the Firearms Policy. There were 2,514 use of force incidents reported between 1 November 2002 and 30 September 2006. Of these 2,514 incidents, 233 related to firearms, 216 of which involved drawing and/or pointing a firearm at a person while the remaining 17 involved the discharge of a firearm regarding animals.

---

### No Select Committee in place to review arming policy

On 2 December 1997, a Select Committee of the House of Assembly was appointed to enquire into the arming policy of the RNC. The Committee tabled its report to the House of Assembly on 31 March 1998 and included the recommendation that the arming policy be reviewed at the end of five years, i.e. March 2003.

As at December 2006, no Select Committee had been established to review the arming policy of the RNC.

---

## Findings and Recommendations

---

### Overview

The results of our review of the Royal Newfoundland Constabulary's (RNC) control over firearms are outlined in the following areas:

1. Inventory Management
  2. Firearms Policy
  3. Use of Force Training
  4. Use of Force Reporting
  5. Select Committee of the House of Assembly
-

## 1. Inventory Management

---

### Introduction

The RNC has developed inventory control procedures to provide for the proper management of its firearms. These procedures include such areas as the assignment of responsibility for control of weapons, the maintenance of a perpetual inventory system, the requirement for annual inventory counts and reports thereon, and procedures to update the inventory system for acquisitions, transfers, dispositions and any required adjustments.

Our review, carried out during the period November 2004 to October 2006, identified errors in additions and deletions as well as discrepancies between firearm assignment and ammunition inventory. As a result, although the RNC has developed controls in this area, they are not always followed.

---

### Firearms and Ammunition Inventory System not Accurate

Although the inventory system is a perpetual system (i.e. it is supposed to be continually updated), we determined that required adjustments, including additions, dispositions or internal re-assignments of firearms and ammunition, are not always made on a timely basis. Therefore, information on firearms and ammunition inventory is not always accurate and up to date.

We tested the accuracy of the inventory listings for firearms and ammunition by selecting all physical inventory items at all of the RNC offices during 2005 and 2006 and compared them to the inventory system. We also selected almost all of the firearms from the inventory system to ensure that the firearm was located where listed in the inventory system. Our review indicated that the inventory system was not accurate as follows:

#### Northeast Avalon October 2005 inventory count

- In April 2005, the RNC converted to a new inventory system for firearms, ammunition and other policing equipment. Our review indicated that 9 handguns (4 for Northeast Avalon and 5 for Corner Brook) and 3 rifles (Northeast Avalon) were deleted in error from the inventory system during the conversion.

- There was one instance where a handgun recorded in the inventory system could not be located. It was subsequently determined that this firearm did not exist and that the serial number had been entered in the inventory system in error. Although this instance was also reported in our 2002, 2003 and 2004 reports, the serial number for this firearm was never removed from the inventory system. During our October 2005 inventory count we noted that it still had not been removed.
- There was one instance where the serial number on the firearm had not been entered correctly in the inventory system. This same observation was made in our 2004 report.
- In November 2004, 20 new firearms were purchased and recorded in the inventory system. Of the 20, 18 were subsequently returned to the vendor; however, when the adjustment was made, all 20 were removed from the system in error. This resulted in 2 firearms being on hand that were not recorded in the system.
- In August 2005, 125 new firearms were purchased. At the time of our count in October 2005, 27 of these 125 firearms had still not been entered into the inventory system.
- There were 17 instances where firearms were located in a different physical location than recorded in the system. In 11 of the 17 instances, members had a firearm in their locker other than the one issued to them. In 4 instances the firearm was observed in the arsenal in St. John's even though it was listed as being signed out to a member. In the remaining 2 instances, a member had a firearm even though it was listed as being in the St. John's arsenal.
- There were 11 types of ammunition in the inventory system and we reviewed all 11 types at St. John's. We found that for 4 types of ammunition, the physical count did not agree to what was recorded in the inventory system. In 2 of the 4 types, the RNC was able to account for the difference by providing copies of input forms which had yet to be posted to the inventory system. In addition, there were 50 rounds of 40 calibre ammunition that could not be accounted for. For the remaining type, the system indicated 400 rounds of 223 calibre ammunition more than what was on hand. This appears to have been caused by a system error in that an input form to remove 400 rounds of ammunition was processed before the input form for the addition of 5,000 rounds. The system indicated the entire 5,000 rounds with no reduction for the 400 rounds already used.

### **Corner Brook and Labrador West February 2006 inventory count**

- When ammunition is transferred to the Corner Brook Division and the Labrador West Division from St. John's it is recorded as used in the inventory system in St. John's. Labrador West uses a computerized inventory system to monitor its firearms and ammunition inventory while Corner Brook uses a manual system. In Corner Brook and Labrador West we reviewed 12 types of ammunition stored at each division. In Corner Brook, for 3 types of ammunition, the physical count did not agree with what was recorded in inventory. For Labrador, one type of ammunition did not agree with the inventory system. In all cases the explanation offered was the proper entry had not been made to the inventory system.
- There was one instance where the firearm assignment for a Corner Brook member was incorrect in Corner Brook's own inventory listing.
- While both Corner Brook and Labrador West maintain their own independent inventory systems for firearms and ammunition, the inventory system located in St. John's includes all firearms owned by the RNC. We found that many of the firearm assignments in the inventory system in St. John's for firearms located in Corner Brook and Labrador West, were inaccurate when compared to information supplied by these two divisions. Of the 51 handguns located in Corner Brook at the time of our count, we found 26 instances where the assignment indicated in the St. John's inventory system did not agree to the information supplied by the Corner Brook Division. Of the 25 handguns located at Labrador West, we found that in 8 instances the assignment indicated in the St. John's inventory system did not agree to the information supplied by the Labrador West Division.

### **Northeast Avalon October 2006 inventory count**

- In April 2005, the RNC converted to a new inventory system for firearms, ammunition and other policing equipment. Our review indicated that 9 handguns (4 for Northeast Avalon and 5 for Corner Brook) and 3 rifles (Northeast Avalon) were deleted in error from the inventory system during the conversion. While the 4 handguns for the Northeast Avalon were re-entered into the system, the 5 handguns for Corner Brook and the 3 rifles for the Northeast Avalon were still missing from the system as of October 2006.



- There was one instance where a handgun recorded in the inventory system could not be located. It was subsequently determined that this firearm did not exist and that the serial number had been entered in the inventory system in error. Although this instance was also reported in our 2002, 2003 and 2004 reports, the serial number for this firearm was never removed from the inventory system. We noted this again during our October 2005 count. During our October 2006 inventory count we noted that it still had not been removed.
- There were two instances where the serial number on the firearm had not been entered correctly in the inventory system. One of these was noted during our October 2005 count and was also included in our 2004 report.
- In addition to the 5 handguns not recorded in the St. John's inventory system from 2005, our October 2006 review identified 33 additional handguns that were not recorded in the inventory system. Of these 33 handguns, 18 were located in Labrador West, 13 in Corner Brook and the remaining 2 were observed in the arsenal in St. John's. The handguns for Labrador West and Corner Brook as well as 1 of the 2 in St. John's were all transferred from St. John's to either Labrador West or Corner Brook during 2006 (1 in St. John's transferred to Corner Brook and returned). While every firearm transferred was not removed from the system, these 32 were. The remaining handgun was returned to the arsenal in St. John's by the Tactics and Rescue Unit in September 2006. This handgun was not in the inventory system and was not included as far back as 2004.
- The inventory system indicated that 4 ceremonial rifles were located in the arsenal in St. John's. These ceremonial rifles are not used for normal operations and are normally located either in the arsenal or in a cage off the gun locker room. While, we counted all firearms at both these locations during our October 2006 count, these rifles were not observed.
- There were 5 handguns which were on Corner Brook's inventory listing in 2005 but were not included in 2006. All 5 are still listed on the main inventory system in St. John's. The RNC in Corner Brook have indicated that these firearms are still in Corner Brook even though they were not included on the inventory listing they submitted for October 2006.

- The inventory listing provided by the Corner Brook Division listed 2 handguns twice. These handguns were indicated as assigned to members and also in the arsenal at Corner Brook.
  - There were 41 instances where firearms were located in a different physical location than recorded in the system. In 9 of the 41 instances, members had a firearm in their locker other than the one issued to them. In 8 instances the firearm was reported in the arsenal in Corner Brook even though it was listed as being signed out to a member. In 21 instances the firearm was reported in the arsenal in Labrador West even though it was listed as being signed out to a member. In 1 instance the firearm was reported as being signed out to a member even though it was listed as being in the Corner Brook arsenal. In the remaining 2 instances, the firearms were reported in the Corner Brook arsenal even though they were listed as being in the St. John's arsenal.
  - At October 2006 the RNC had 128 rifles and 54 shotguns. Our review of the main inventory listing indicated that many of these are assigned to locations or members that do not correspond to their actual locations. For instance, shotguns and rifles assigned to Corner Brook and Labrador West are assigned to members who at one time were responsible for the control of the firearms at those locations. These are not the members who have that responsibility now. In fact, the member the Labrador West shotguns and rifles are signed out to is no longer in Labrador West. There are also many firearms located with the Tactics and Rescue Unit that are signed out to a former member of that unit.
  - There were 11 types of ammunition in the inventory system and we reviewed all 11 types at St. John's. We found that for 5 types of ammunition, the physical count did not agree to what was recorded in the inventory system. In particular 9,012 rounds of 40 calibre training ammunition, 4,760 rounds of 308 calibre ammunition, 2,394 rounds of 38 calibre ammunition, 400 rounds of 223 calibre ammunition and 52 rounds of 40 calibre emergency ammunition could not be accounted for. We note that during our October 2005 count we also found 400 rounds of 223 calibre ammunition missing. This was found to be a system error.
-

**Firearm  
Inventory  
System Internal  
Review**

An internal review conducted by the RNC's Quality Performance Section in March 2005 indicated differences between the count of ammunition and firearm assignments to what was recorded in the RNC inventory system. This review indicated that changes to the inventory system related to firearms and ammunition (e.g. re-assignments, purchases, disposals and usage) were not always made on a timely and accurate basis. Timely input of additions, deletions and transfers are fundamental to maintaining a perpetual inventory system.

The RNC's Quality Performance Section was not staffed for 2006 and as a result there was no internal review of firearms and ammunition.

---

**2. Firearms Policy**

---

**Introduction**

The RNC has a Firearms Policy which provides specific direction to its members on the control and usage of firearms. We reviewed procedures used by the RNC to monitor members' compliance with the Firearms Policy which include inspections of firearms and firearms storage areas and internal quality reviews over firearms. Where appropriate, we also tested compliance with the Firearms Policy. Our review of documentation maintained by the RNC in monitoring compliance with the Firearms Policy, discussions with RNC officials and our testing of compliance with the Policy indicated that the RNC was not monitoring for compliance in accordance with the requirements of their Firearms Policy and that members were not always complying with the Policy.

---

**Monthly  
Locker  
Inspections**

The Firearms Policy requires unloaded firearms to be secured in the members' personal firearms storage lockers at RNC facilities or in other approved locations when the member is not on duty. To monitor compliance with this policy, the Inspections Officer or their designate is required to conduct monthly inspections of the firearms storage lockers. Certain infractions of this policy are reported to the District Inspectors or the Divisional Commanders to follow up with the members.

Our review indicated that the monthly inspections were not performed in St. John's and area in 2005 for the months of January, February, April, May, July, August, October and November and in 2006 for the months of January, February, April, May, July, August, September and November. As well, in December 2004, June 2005 and September 2005, there was no indication that the lockers in the Tactics and Rescue Unit's Room were included in the inspections. In addition, monthly inspections were not performed in Corner Brook in 2005 for the months of April, May, July and August. While there have been no changes to the RNC's Firearms Policy as to frequency of inspections, RNC officials have indicated that the number of inspections for the year have been reduced from monthly to quarterly for St. John's and area. The Corner Brook and Labrador West divisions continue to do monthly inspections.

A review of these monthly inspection reports covering the period November 2004 to November 2006, indicated 141 infractions such as: ammunition not stored in the locker even though the member was not on duty (10), missing pepper spray (44), and stored firearms which were loaded (2). The monthly inspection reports also noted instances (85) where the firearm storage lockers were empty; however, there was no indication on the final resolution as to whether the member may have been on duty.

We were informed that certain infractions identified by the Inspections Officer are required to be referred to the RNC Professional Standards Section for investigation. Such infractions include firearms stored loaded, missing pepper spray or firearms stored someplace other than the firearms locker. Ammunition infractions are not referred to the RNC Professional Standards Section. Therefore, of the 141 infractions identified, 131 were required to be referred. However, only 12 of the 131 infractions were referred. Of the 119 infractions which were not referred, 85 related to the empty firearms storage lockers while the remaining 34 related to missing pepper spray.

Our review of documentation from the Professional Standards Section indicated that they received 16 firearms related infractions for the period November 2004 to November 2006. Only 12 of these 16 infractions were referred as a result of the monthly locker inspections. Of the remaining 4 infractions, 3 were referred by the Corner Brook Division during 2005 for firearms stored loaded. None of these were indicated on Corner Brook's monthly inspection reports.

The other infraction was referred by the Range Master. This incident involved a RNC member finding a loaded firearm left unattended in a washroom at RNC Annex. Of note, when the serial number was obtained from the firearm and traced to the inventory system, the RNC member identified as having this firearm was not the member who was subsequently found to have committed the infraction. These members were storing their firearms in a filing cabinet and had taken each other's firearms by mistake.

---

**Inspections**

As part of our review, we attended four monthly locker inspections as follows:

- St. John's area - October 2005.
  - Corner Brook Detachment - February 2006.
  - Labrador West Detachment - February 2006.
  - St. John's area - October 2006.
- 

**St. John's area  
- October 2005  
Inspection**

This inspection included the St. John's Headquarters and Mount Pearl offices. During this inspection, we observed 28 infractions of the Firearms Policy as follows:

- The amount of ammunition stored in the lockers of 18 members did not agree to the amount of ammunition assigned to the members as recorded in the inventory system. We noted that in:
  - 5 of the 18 instances ammunition was missing;
  - 2 of the 18 instances extra ammunition was in the locker; and
  - for the remaining 11 instances, the members had ammunition in their locker even though they were on duty and were required to be carrying all ammunition issued.
- The Firearms Policy requires members to use loading/unloading ports that are located in firearms storage areas for loading and unloading firearms. During our attendance at this inspection of firearms storage lockers, in St. John's, we observed 3 members loading/unloading their firearm without using the port.

- We identified 5 members whose lockers were empty but the members were not on duty. We were informed that these members store their firearms in locked cabinets in their offices in the Annex. There is no port available for loading and unloading in the Annex.
- There were 2 members who had been issued a firearm and ammunition but while they were on leave at the time of the inspection, the firearms and ammunition were not present in their lockers.

During our inspection we noted 20 members who were on duty but not armed. All 20 were members of the Criminal Investigation Division. The RNC Firearms Policy requires that *all members assigned to front line operational duties, as identified by the Chief of Police, will wear service firearms while on duty*. Members of the Criminal Investigation Division are identified as front line operational.

In conducting the monthly firearm locker inspections, the RNC uses firearm locker assignment listings which include locker number, member's name, firearm serial number, rounds of ammunition issued and pepper spray serial number to match contents to what is assigned. During this inspection we identified 77 instances in St. John's where the information contained on the locker assignment listings was not accurate. These instances included lockers indicated as vacant which were actually in use and the wrong firearm indicated as being issued to the member. This could result in an infraction being cited for the wrong member and also adds confusion when completing the monthly locker inspection.

---

### Corner Brook - February 2006 Inspection

During this inspection, we observed 4 infractions of the Firearms Policy as follows:

- The amount of ammunition stored in the lockers of 2 members did not agree to the amount of ammunition assigned to the members as recorded in the inventory system. In both cases ammunition was missing.
- There was 1 member who did not have their pepper spray stored in the locker.

- There was 1 instance where the firearm was not stored in the locker even though the member was not on duty. RNC officials indicated that this member had taken their firearm home by mistake.
- 

**Labrador West  
- February  
2006 Inspection**

During this inspection, we observed 1 infraction where a member had an extra 6 rounds of training ammunition in their locker.

---

**St. John's  
Region -  
October 2006  
Inspection**

This inspection included the St. John's Headquarters and Mount Pearl offices. During this inspection, we observed 47 infractions of the Firearms Policy as follows:

- There was 1 member who had a loaded firearm in their firearm locker.
- There were 11 members who did not have their pepper spray stored in the locker even though they were not on duty. In addition, there were 5 members who had stored their pepper spray in their locker even though they were on operational duty.
- The amount of ammunition stored in the lockers of 22 members did not agree to the amount of ammunition assigned to the members as recorded in the inventory system. We noted that in:
  - 14 of the 22 instances ammunition was missing; and
  - for the remaining 8 instances, the members had ammunition in their locker even though they were on duty and were required to be carrying all ammunition issued.
- The Firearms Policy requires members to use loading/unloading ports that are located in firearms storage areas for loading and unloading firearms. During our attendance at this inspection of firearms storage lockers, in St. John's, we observed 1 member loading/unloading their firearm without using the port.
- We identified 7 members whose lockers were empty but the members were not on duty. We were informed that 2 members were off on sick leave, 2 members were between shifts, 1 member was on annual leave and 2 members had their firearms in locked cabinets in their offices in the Annex. There is no port available for loading and unloading in the Annex.

During our inspection we noted 38 members who were on duty but not armed. Of the 38, 33 were members of the Criminal Investigation Division, 4 were members of the Patrol Division and 1 was in the Traffic Accident Investigation Division. The RNC Firearms Policy requires that *all members assigned to front line operational duties, as identified by the Chief of Police, will wear service firearms while on duty.* Members of these divisions are identified as front line operational.

In conducting the monthly firearm locker inspections, the RNC uses firearm locker assignment listings which include locker number, member's name, firearm serial number, rounds of ammunition issued and pepper spray serial number to match contents to what is assigned. During this inspection we identified 17 instances in St. John's where the information contained on the locker assignment listings was not accurate. These instances included lockers not included on the locker listing, ammunition and pepper spray present in locker but not indicated on listing and the wrong firearm indicated as being issued to the member. This could result in an infraction being cited for the wrong member and also adds confusion when completing the monthly locker inspection.

---

### **Shotguns policy not being followed**

The Firearms Policy requires that one 12 gauge shotgun be contained in each of the six supervisory vehicles used by a Non-Commissioned Officer (Sergeant in charge of shift) and the Operational Supervisor (Staff/Sergeant in charge of a shift) for use in responding to certain threats. These firearms are to be removed at the end of each shift or during prolonged absences from the vehicle. A log book has been provided to record the logging out and in of these shotguns.

Our review of these log books in St. John's during both of our 2005 and 2006 inspections indicated that there were instances where supervisors signed out a shotgun but did not sign the shotgun back in at the end of the shift or did not sign the shotgun out at all. In addition, we identified instances where no shotgun was signed out on certain days even though the supervisory vehicles are used on a daily basis. In fact, the log book on hand during our October 2006 visit had only 4 entries recorded covering November 2005 to July 2006. These gaps would indicate that either the supervisor is not out on patrol, is out on patrol without a shotgun or out on patrol with a shotgun which has not been signed out. A report prepared by the Quality Performance Section in March 2005 noted similar issues.



A log book could not be located for Mount Pearl, Corner Brook and Labrador covering the period of our review. The RNC indicated that the shotguns in Corner Brook and Labrador West are kept on site and are not contained in a supervisory vehicle.

---

**Annual  
personnel and  
equipment  
inspections**

RNC policy requires that all personnel and equipment be inspected a minimum of twice per year by the Inspections Officer or Non-Commissioned Officers and that a report be provided to the Chief of Police. During the period covered by our review, only one report was issued which was in December 2006. The Inspections Officer indicated that only one inspection was done for the St. John's area and Corner Brook in 2006, the results of which were included in this report. The report also included findings on the two inspections performed in Labrador West during 2006. We were informed that the required inspections for 2005 were completed but a report to the Chief of Police was never prepared.

---

### **3. Use of Force Training**

---

**Introduction**

Use of force training consists of a basic one week use of force program plus four modules which are to be offered on a continual basis. The four modules include:

- Module 1 - firearms
- Module 2 - defensive tactics/handcuffing techniques and baton;
- Module 3 - tactical room entries/weapons retention; and
- Module 4 - a lecture on the use of force continuum.

The Use of Force Policy requires that members complete module 1 annually and complete the remaining three modules on a cyclical basis over a three year period.

---

### Use of force training database

The RNC maintains a database to track training in use of force. We reviewed the information contained in this database as of 31 December 2005 and 8 November 2006. We tested the accuracy of the inputs into the system and determined that the information was neither accurate nor complete. For example in:

- 3 instances the date for training was entered incorrectly;
- 49 instances where training was completed but not entered into the system;
- 49 instances where the information contained on the training form did not support the training information entered into the system; and
- 23 instances where a training date was entered in the system even though there was no form to indicate the member had received the training.

In addition, we noted 34 instances where the training form indicated that shotgun training had not been completed when the members received module 1 training. When this training was recorded in the system, there was no indication that shotgun training had not been covered. Instead, it was recorded that the complete module 1 training (i.e. including shotgun training) had been provided. While 17 of these members did subsequently receive the required shotgun training, again this was not clear in the system. 2 of the 17 members had completed module 1 again so that was recorded properly but the remaining 15 had completed just the shotgun portion. This was recorded in the system as though the complete module 1 training had been provided again.

Errors in the system are of particular concern because the system is used to determine what use of force training has been provided and what training remains to be provided. Therefore, a member may not receive all of the necessary use of force training.

---

### Use of force training activity

During 2005 all members were required to complete modules 1 and 3 unless exempted due to leave or valid medical reason. For 2005, there were 343 individuals included in the use of force training database even though 12 had left the RNC during the year leaving 331 current members. However, there were 332 members on the seniority list. One current member was not recorded in the database. Of the 332 current members, 14 were not required to receive use of force training because of medical

reasons or because they were on some type of leave. However, the inventory system indicated that 4 of the 14 members had firearms issued to them. For the 318 members requiring modules 1 (firearms) and 3 (tactical room entries/weapons retention) use of force training during 2005 we noted the following as of 31 December 2005:

- Of the 318 members, 145 had completed module 1 training in the required time frame while the remaining 173 did not receive the required firearms training in the required one year time frame.
- 197 of the 318 members had completed module 3 of the use of force training as of 31 December 2005. The remaining 121 members did not receive the required training in the required time frame.
- During our 2004 review, we identified 123 members who had not received the module 2 training which was required to be completed by the end of 2004. As of 31 December 2005, 102 members had completed module 2, 1 member had been excused for medical reasons while the remaining 20 had not yet completed module 2 training.

During 2006 all members were required to complete modules 1 and 4 unless exempted due to leave or a valid medical reason. For 2006, there were 353 current RNC members. Of the 353 members, 18 were not required to receive use of force training because of medical reasons or because they were on some type of leave. However, per the inventory system, 5 of the 18 members had firearms issued to them. For the 335 members requiring modules 1 (firearms) and 4 (involves a lecture on the use of force continuum) use of force training during 2006 we noted the following as of 8 November 2006:

- Of the 335 members, 102 had completed module 1 training in the required time frame, 112 members are not yet due for training and the remaining 121 did not receive the required firearms training in the required one year time frame.
- 149 of the 335 members had completed module 4 of the use of force training as of 8 November 2006. To comply with RNC policy, the remaining 186 members will have to receive module 4 training by 31 December 2006.

- During our review of use of force training to 31 December 2005, we identified 121 members who had not received the module 3 training which was required to be completed by the end of 2005. As of 8 November 2006, 34 members had completed module 3, 12 members were excused for medical or retirement reasons while the remaining 75 have not yet completed module 3 training. As for the module 2 training that was required in 2004, of the 20 members who still had not received that training at 31 December 2005, 17 have still not received this training as of 8 November 2006. The other 3 were excused either for medical reasons or through retirement.

As a result, the RNC is not complying with its policy for the use of force training as 173 members for 2005 and 121 members for 2006 did not re-qualify in the use of firearms (module 1) in the required one year time frame and 17 members still have not completed module 2 training that was required in 2004. Furthermore, it is unlikely, based on prior years' performance, that all of the 186 members will receive the required module 4 training by 31 December 2006.

---

#### **4. Use of Force Reporting**

---

##### **Introduction**

The Firearms Policy requires that members be fully versed in the Use of Force Guidelines as outlined in the Use of Force Policy. These Guidelines provide guidance with respect to when it is appropriate to use force and the level of force required to be used in various situations. The Use of Force Policy requires that any time a member uses any type of force from simple restraint to discharging a firearm; a Use of Force Report must be filed.

RNC Policy requires that these reports be reviewed by the member's immediate supervisor and the District Inspectors and/or Divisional Commanders, and submitted to the Chief of Police. Under the Use of Force Policy, the Use of Force Review Board should also receive a copy of the report. This Board was established by the RNC to monitor the procedures, practices and training relating to the use of force and to review all incidents of use of force.

---

### Use of force incidents

There were 2,514 use of force incidents reported between 1 November 2002 and 30 September 2006. Of these 2,514 incidents, 233 related to firearms, 216 of which involved drawing and/or pointing a firearm at a person while the remaining 17 involved the discharge of a firearm regarding animals.

Our review of the Use of Force Reports indicated that there were 48 Use of Force Reports which were not signed as evidence of review by the District Inspector. Furthermore, although a new form was introduced in May 2001, which was to include information on such things as the use of handcuffs and also provided a place for signature approval, we found 43 instances where the old form was used and therefore the required information was not documented.

In addition, we noted that the incidents of force involving the drawing and/or pointing of a firearm have increased. In our 2004 report, there were 43 such incidents while for the current review there were 136 (37 in 2005 and 99 in 2006). When this was discussed with RNC officials, they were unaware of the increase and could provide no explanation. The RNC does not complete annual summaries of use of force incidents so it is possible not to be aware of such increases. As a result, it is possible that the incidents are not being properly investigated to determine whether members require additional training.

---

### Public Complaints Commission

Instances of force may also be reviewed by either the Public Complaints Commission or the RNC's Professional Standards Section upon the receipt of a complaint from a member or the general public. We were informed that there were no complaints received by the Public Complaints Commission regarding use of firearms by members during the period 16 November 2004 to 15 December 2006. However, there were 16 internal complaints received by the Professional Standards Section of the RNC during the period 16 November 2004 to 30 November 2006, 12 of which resulted from firearm locker inspections.

Of these 12 complaints, 9 were followed up and action was taken against the member. Action taken by the RNC included counselling as well as verbal warnings. Of the remaining 3 incidents, 2 did not require any action and the other 1 is still ongoing.

Of the remaining 4 of the 16 complaints received by the Public Standards Section, 3 involved the storage of loaded firearms and 1 involved the leaving of a loaded firearm in a washroom at RNC Headquarters. The members with their firearms stored loaded were coached and counselled while the member leaving the loaded firearm in the washroom received a one day suspension without pay.

We also noted 15 complaints for excessive force filed with the Public Standards Section. All these complaints were received from members of the public. Of the 15 complaints, 4 were withdrawn, 6 were assigned to a criminal file, 3 had court dates set, and 2 were resolved informally.

---

**Use of Force Board**

The Use of Force Review Board is required to review all instances of use of force. Although all Board members used to receive copies of the Use of Force Reports, this practice was discontinued after May 2002. Instead, only one member of the Board, the Firearms and Use of Force Instructor, receives the reports.

The Use of Force Review Board had not met since October 2002 until three meetings were held on 27 September 2006, 2 October 2006 and 17 October 2006. The minutes of these meetings indicated that their purpose was to review the existing Firearms Policy. The minutes indicated a section by section consideration of the Firearms Policy; however, there was no consideration or discussion of Use of Force Reports or other related information.

---

**5. Select Committee of the House of Assembly**

---

On 2 December 1997, a Select Committee of the House of Assembly was appointed to enquire into the arming policy of the RNC. The Committee tabled its report to the House of Assembly on 31 March 1998 and included the recommendation that the arming policy be reviewed at the end of five years, i.e. 31 March 2003, by a Select Committee of the House of Assembly.

As at December 2006 the arming policy of the RNC has not been reviewed.

---

**Recommendation**

---

*The Royal Newfoundland Constabulary should comply with established policy.*

---

## Royal Newfoundland Constabulary's Response

*As noted in your report, "On December 2, 1997, a Select Committee of the House of Assembly was appointed to enquire into the arming policy of the RNC. The Committee tabled its report to the House of Assembly on March 31, 1998 and included the recommendation that the arming policy be reviewed at the end of the five years (i.e. March 31, 2003) by a Select Committee of the House of Assembly". However, the arming policy of the RNC has still not been reviewed.*

*I would like to advise that it is our intention to revisit this matter, including the requirement for an annual audit, this year since the five year period has elapsed. We will keep you advised of any developments accordingly.*

*In the audit report for the period 2005 and 2006 the following areas of concern were identified:*

- 1. Firearms & ammunition inventory not accurate*
- 2. Firearm policy infractions not being properly followed up*
- 3. Monthly inspections of firearms storage lockers not performed*
- 4. Personnel & equipment inspections not properly reported*
- 5. Training not being completed as required and database not accurate*
- 6. Use of Force Review Board not accurate*
- 7. No select committee in place to review arming policy*

*The RNC recognizes the issues/concerns raised and concurs with the remark that "it is critical that the Royal Newfoundland Constabulary continue efforts to improve compliance with establish Policies & Procedures."*

*We would like to advise that in 2006, we requested the creation of a new civilian management position of Facilities and Assets Manager for the RNC. This position was approved by Treasury Board (TBM 2006-018 refers) and was filled in August 2006. This position is accountable for planning, organizing, directing and controlling all the facilities and assets activities for the Force.*

*We have requested in the 2007/08 budget process that a new civilian position of Inventory Coordinator be established in our Facilities and Assets Division. If approved it is our intention to have this position play a key role in management of the inventory of firearms.*

*Furthermore, we will also be requesting in the 2007/08 budget process the establishment of a new civilian management position of Police Audit and Compliance Manager (or similar title). If approved, this position will be responsible for the conduct of internal audits to ensure compliance with all policies, including the firearms policy. This would include the issuance of comprehensive reports with recommendations and the follow up to ensure these are implemented. All of these new resources will ensure greater control over our firearms in future. It is strongly believed that a dedicated resource in this area, along with internal audit protocols, will greatly add to the efficiency of the armory system.*

*We would also like to comment on several specific areas of the report and our proposed solutions:*

1. Royal Newfoundland Constabulary Computer Armory System - *This system was re-vamped in 2005. During the changeover, errors were encountered during the database sequence. Further a system error was discovered last summer and at times appears to reoccur whereby items are being placed on the system but when queried would not show up as part of the inventory. Our training support person is now working closely with the OCIO to fix this issue.*

*Also, the Corner Brook and Labrador Detachments are currently utilizing outdated database programs which are not compatible with our new system. Transactions completed on those systems remain isolated to those locations and changes are not reflected on the system located in St. John's. This is problematic when it comes to the signing in and out of respective firearms in each location and has had an impact on items #1, 2 and 5 of the issues/concerns referenced by the Auditor General. The Royal Newfoundland Constabulary is committed to working with the OCIO in the very near future to correct these problems. Further, we will consult with officials of the Auditor General's office to ensure all inadequacies are rectified.*

2. Transitional Training - *In 2004, the Royal Newfoundland Constabulary introduced a safer and more effective firearm to its inventory for issue to its members, namely the Sig Sauer 40 caliber to replace the Ruger 357 caliber. As a result of this initiative, a comprehensive and time consuming training protocol was put in place which changed the training time for firearms from 4 hours to 3 days. This extensive training protocol put a strain on the Use of Force Coordinator to deliver all required modules of Use of Force to all members in*



*the time allotted under policy. At present, approximately 80% of Royal Newfoundland Constabulary Members have completed the transitional training with the remaining 20% to be completed this year. This priority training, once completed, will allow the Royal Newfoundland Constabulary Use of Force Program to continue with normal scheduling. Also a second officer has been trained in Use of Force/Firearms which will be able to assist in the delivery of this program. This has had a direct impact on items #3, 4 & 5 of the issues/concerns raised by the Auditor General.*

*With reference to the concerns raised in relation to Personnel and Equipment inspection not properly reported as well as the Use of Force Review Board, the Royal Newfoundland Constabulary submits that both areas are being examined from a policy perspective. Further, in relation to the Use of Force Review Board not being active, this Board has now been reactivated however the purpose of this board was to review/monitor all Use of Force report forms with the mandate to identify any concerns relating to potential training issues etc. Presently, although the Board does not review same, all Use of Force report forms are reviewed by the Platoon/Divisional Commander.*

*Another area identified in the report was in the section, “firearms policy infractions not being properly followed up”. The reference to the word “infraction” implies wrong doing and/or non-compliance which we believe to be misleading. We agree that there have been areas of non-compliance but aren't aware of any instance whereby an incident viewed by the Royal Newfoundland Constabulary as an “infraction” was not reported and followed up on.*

*In conclusion, the Royal Newfoundland Constabulary is committed to acting on all issues/concerns referenced in the Auditor General's Report and look forward to continued cooperation and support from your office.*

---



## Highlights

Highlights of a review of the Job Creation Program for the fiscal years 2004 and 2005.

### Why our Office Did this Review

We undertook a review of the Job Creation Program to determine how the Program was funded, whether the Department adequately and consistently evaluated project applications and whether the Department monitored the effectiveness of the Program.

### What our Office Recommends

Our Office recommends that the Department ensure that:

- funding for all Departmental programs is included in budget submissions to allow for debate and consideration by the House of Assembly;
- funding allocations are documented;
- decisions relating to the approval and rationale for projects are documented;
- all applications are given equal opportunity for selection;
- guidelines for programs are complied with;
- receipt date of program related information from funding recipients is documented; and
- programs are adequately monitored.

### What the Department Said

To provide balance to this report and to ensure full disclosure, the Department was asked to formulate a response to our findings and conclusions. The Department's response, verbatim, is included at the end of this report. Readers are encouraged to consider the Department's comments in this regard.

◆ ◆ ◆ ◆ ◆

To view the full report, refer to the web site [www.gov.nl.ca/ag/reports.htm](http://www.gov.nl.ca/ag/reports.htm). For more information, contact Nina Goudie, Director of Information Resources, 709-729-2346 or [ninagoudie@gov.nl.ca](mailto:ninagoudie@gov.nl.ca).

Chapter 2, Part 2.13

### DEPARTMENT OF MUNICIPAL AFFAIRS Job Creation Program

The Department of Municipal Affairs provides services and assistance to municipalities throughout Newfoundland and Labrador. The Job Creation Program is a special employment initiative that was first introduced by the Department in 1997. The Program concluded at 31 March 2005 and was replaced by the Community Enhancement Program. For the fiscal year 2005, the Program funded 462 projects in 37 districts and cost \$4.2 million.

### What We Found

Overall, the Department of Municipal Affairs did not adequately administer the Job Creation Program.

#### (a) Funding not debated in the House of Assembly

Because the Job Creation Program was funded through special warrants and intra-departmental transfers from other programs, there was no opportunity for the House of Assembly to debate and consider funding requirements for the Program. Furthermore, although officials indicated that funding allocation was made by electoral district, there was no documentation available to show how much was allocated to each district or the basis for the allocation.

#### (b) Rationale for project selection not well documented

Our review of the project selection process identified the following:

- The merit of a project was not evaluated on an electoral district basis relative to other potential projects to maximize the effectiveness of the Program for the district. As well, because funding is allocated by electoral district, there is no opportunity for the merit of projects to be evaluated on a Province-wide basis.
- The Department has not documented definitions for all its project criteria, and as a result, it was not possible to determine whether these criteria were met.
- Our review of 92 project files indicated that none contained sufficient information to demonstrate that approved projects met all Program criteria.
- Although Program guidelines indicate that sponsor groups are not eligible for future project funding if they did not comply with Program guidelines in prior projects, 13 of the 25 sponsor groups we examined received funding for fiscal year 2005 even though they did not comply with Program guidelines for projects approved in 2004.
- There was no documentation in the files outlining the rationale for funding approvals.
- There was no established application process for additional funding requests which would provide details from the sponsor group on either the work to be completed or the rationale for the additional funding request. As well, there was no documentation indicating on what basis the additional funds were approved.
- Of 58 rejected applications reviewed, 37 were subsequently approved for funding even though they were similar in content and scope to the 21 rejected applications which were not subsequently approved. Furthermore, there was no documentation to either explain the final resolution (approved/not approved) of the 58 applications or to evidence who determined and/or authorized the final resolution.

#### (c) Project monitoring ineffective

The final reports contained in the sponsor group files examined did not include all required information in order for the Department to determine whether Program guidelines were followed and whether funds were being spent as intended. Furthermore, Departmental officials did not always take action to obtain information not provided by the sponsor groups. In fact, the Department did not take action in cases where issues of non-compliance were identified in reports that did contain the required information.

### Introduction

---

#### Overview

The Department of Municipal Affairs (the Department) provides services and assistance to municipalities throughout Newfoundland and Labrador. The Job Creation Program (the Program) is a special employment initiative that was first introduced by the Department in 1997. The Program concluded at 31 March 2005 and was replaced by the Community Enhancement Program. The Job Creation Program guidelines indicate that the overriding goal of the Program was to “...*target interventions to support families and not necessarily individuals in meeting their employment insurance needs.*”

---

#### Program Objectives

The specific objectives for the Job Creation Program were to:

- provide a short-term work response program;
  - support labour intensive job creation projects;
  - address needs of families and others with no employment income; and
  - act as leverage to combine with other programs and fundraising initiatives to supply materials and other non-labour related project components.
- 

#### Who could receive funding

The following sponsor groups were eligible for funding:

- non-profit organizations;
  - community-based agencies;
  - service groups;
  - churches;
  - municipal councils and local service district committees; and
  - development agencies.
-

---

## Job Creation Program

---

### Application process

Sponsor groups submit a project application to either their Member of the House of Assembly (MHA) or the Department. Applications that end up at the Department are evaluated and either approved or rejected by the Job Creation Program Coordinator (the Coordinator) in consultation with the MHA. The Minister of Municipal Affairs provides final project approval.

---

### Eligibility criteria

The Program guidelines stipulate that project applications must be received by a specific deadline, usually in December. To be considered for approval, the proposed project must meet the following eligibility criteria:

- relatively short-term;
  - labour intensive;
  - small scale;
  - capable of immediate start-up; and
  - administered by the sponsor group (the applicant) as opposed to contractors.
- 

### Funding allocation to districts

Funding is allocated by electoral district. In fiscal year 2005, 462 projects valued at \$4,203,649 were funded in 37 districts. In fiscal year 2004, 409 projects valued at \$4,214,246 were funded in the same 37 districts.

---

## Audit Objectives and Scope

---

### Objectives

The objectives of our review were to determine:

- how the Program was funded;
  - whether the Department adequately and consistently evaluated project applications; and
  - whether the Department monitored the effectiveness of the Program.
-

### Scope

We completed our review in January 2006. We examined a selection of project files for fiscal years ending 2005 and 2004. Our review included discussions with Department staff and an examination of 92 project files (56 of 462 in 2005 and 36 of 409 in 2004).

---

### Conclusions

---

Overall, the Department of Municipal Affairs did not adequately administer the Job Creation Program. Funding was not debated in the House of Assembly and there was no support for district allocations, the rationale for project selection was not well documented, and project monitoring was ineffective.

Our review addressed the following areas:

- (a) program funding;
  - (b) project selection; and
  - (c) project monitoring.
- 

### **Funding not debated in House of Assembly and no support for district allocations**

#### **(a) Program Funding**

Because the Job Creation Program was funded through special warrants and intra-departmental transfers from other programs, there was no opportunity for the House of Assembly to debate and consider funding requirements for the Program.

Although officials indicated that funding allocation was made by electoral district, there was no documentation available to show how much was allocated to each district or the basis for the allocation.

---

### **Rationale for project selection not well documented**

#### **(b) Project Selection**

Our review of the project selection process identified the following:

- The merit of a project was not evaluated on an electoral district basis relative to other potential projects to maximize the effectiveness of the Program for the district. As well, because funding is allocated by electoral district, there is no opportunity for the merit of projects to be evaluated on a Province-wide basis.

- The Department has not documented definitions for all its project criteria, and as a result, it was not possible to determine whether these criteria were met.
  - Our review of 92 project files indicated that none contained sufficient information to demonstrate that approved projects met all Program criteria.
  - Although Program guidelines indicate that sponsor groups are not eligible for future project funding if they did not comply with Program guidelines in prior projects, 13 of the 25 sponsor groups we examined received funding for 2005 even though they did not comply with Program guidelines for projects approved in fiscal year 2004.
  - There was no documentation in the project files outlining the rationale for funding approvals.
  - There was no established application process for additional funding requests which would provide details from the sponsor group on either the work to be completed or the rationale for the additional funding request. As well, there was no documentation indicating on what basis the additional funds were approved.
  - Of 58 rejected applications reviewed, 37 were subsequently approved for funding even though they were similar in content and scope to the 21 rejected applications which were not subsequently approved. Furthermore, there was no documentation to either explain the final resolution (approved/not approved) of the 58 applications or to evidence who determined and/or authorized the final resolution.
- 

### **Project monitoring ineffective**

#### **(c) Project Monitoring**

The final reports contained in sponsor group files examined did not include all required information in order for the Department to determine whether Program guidelines were followed and whether funds were being spent as intended. Furthermore, Departmental officials did not always take action to obtain information not provided by the sponsor groups. In fact the Department did not take action in cases where issues of non-compliance were identified in reports that did contain the required information.

---

## Findings and Recommendations

In fiscal year 2005, 462 projects, valued at \$4,203,649, were funded through the Job Creation Program in 37 districts. In 2004, 409 projects, valued at \$4,214,246, were funded in the same 37 districts. Details are outlined in Figure 1:

**Figure 1**

**Department of Municipal Affairs  
Job Creation Program  
Expenditures by Electoral District  
Years Ending 31 March 2004 and 2005**

<b>Electoral District</b>	<b>2004</b>	<b>2005</b>	<b>Total</b>
Baie Verte	\$ 216,312	\$ 226,805	\$ 443,117
Bay of Islands	68,874	68,367	137,241
Bellevue	100,000	105,400	205,400
Bonavista North	205,903	202,700	408,603
Bonavista South	203,611	210,000	413,611
Burgeo and La Poile	199,268	200,794	400,062
Burin - Placentia West	202,500	184,980	387,480
Cape St. Francis	14,870	26,760	41,630
Carbonear - Harbour Grace	100,000	100,000	200,000
Cartwright - L'Anse Au Clair	93,232	109,604	202,836
Conception Bay East and Bell Island	24,997	35,799	60,796
Conception Bay South	9,200	10,500	19,700
Exploits	47,890	51,998	99,888
Ferryland	190,957	211,484	402,441
Fortune Bay - Cape La Hune	99,578	126,350	225,928
Gander	25,000	19,649	44,649
Grand Bank	131,957	124,000	255,957
Grand Falls-Buchans	69,401	71,500	140,901
Harbour Main - Whitbourne	101,366	100,152	201,518
Humber East	41,096	41,600	82,696

## Job Creation Program

Figure 1 (cont.)

Electoral District	2004	2005	Total
Humber Valley	80,116	74,000	154,116
Humber West	-	-	-
Kilbride	15,000	12,000	27,000
Labrador West	-	-	-
Lake Melville	33,369	28,000	61,369
Lewisporte	199,200	159,972	359,172
Mount Pearl	-	-	-
Placentia and St. Mary's	199,837	210,300	410,137
Port au Port	213,378	189,998	403,376
Port de Grave	60,500	55,361	115,861
Signal Hill - Quidi Vidi	-	-	-
St. Barbe	198,000	215,000	413,000
St. George's - Stephenville East	98,419	99,800	198,219
St. John's Centre	-	-	-
St. John's East	-	-	-
St. John's North	-	-	-
St. John's South	10,650	10,500	21,150
St. John's West	-	-	-
Terra Nova	151,498	144,494	295,992
The Straits and White Bay North	208,633	190,000	398,633
Topsail	-	-	-
Torngat Mountains	98,799	90,000	188,799
Trinity - Bay de Verde	99,909	114,774	214,683
Trinity North	99,592	85,000	184,592
Twillingate and Fogo	100,250	104,508	204,758
Virginia Waters	-	-	-
Waterford Valley	-	-	-
Windsor - Springdale	201,084	191,500	392,584
<b>Total</b>	<b>\$ 4,214,246</b>	<b>\$ 4,203,649</b>	<b>\$ 8,417,895</b>
<b>Number of projects</b>	<b>409</b>	<b>462</b>	

Source: Department of Municipal Affairs



## Job Creation Program

### Extent of funding

As Figure 1 indicates, funding in districts with approved projects ranged from \$10,500 to \$226,805 during 2005 and from \$9,200 to \$216,312 during 2004.

For fiscal year 2005, we reviewed 56 projects in 25 districts represented by 31 sponsor groups. Details of these samples are outlined in Figure 2.

### Figure 2

#### Department of Municipal Affairs Job Creation Program Summary of Sponsor Groups Reviewed Year Ending 31 March 2005

Sponsor Group	Electoral District	No of Projects	Total Funding
Bonaventure English Hr Development Association	Trinity North	1	\$ 50,000
Port Au Port Economic Development Association	Port au Port	5	189,998
Town of Channel - Port Aux Basques	Burgeo and La Poile	1	20,000
St James Anglican Church	Bay of Islands	1	5,000
Blueberry Growers Association	Carbonear - Hr Grace	1	17,000
Town of Pilleys Island	Windsor - Springdale	1	20,000
Flat Bay Brook Cabin Owners Association	St. Georges - Stephenville East	1	10,000
Isthmus Development	Bellevue	2	30,000
Town Council of Nain	Torngat Mountains	2	22,500
Keels Anglican Church Women	Bonavista South	2	21,000
Exploits Valley Development Association	Grand Falls - Buchans	1	15,000
Bell Island Community Pentecostal Community Chapel	Conception Bay East and Bell Island	1	1,000
Emerald Zone Corporation	Baie Verte	2	12,500
Dunne Academy	Placentia and St.Marys	1	3,000
Killdevil Camp	Humber Valley	1	2,300
Quirpon Historical Corp.	The Straits and White Bay North	1	10,000
Gros Morne Regional Complex	St. Barbe	2	15,500
Womens Institute	Twillingate - Fogo	1	4,926

## Job Creation Program

**Figure 2 (cont.)**

<b>Sponsor Group</b>	<b>Electoral District</b>	<b>No of Projects</b>	<b>Total Funding</b>
Winter Brook Social Committee	Bonavista South	1	15,000
Carmanville Habitat Committee	Bonavista North	2	10,000
Placentia West Development Association	Burin - Placentia West	2	49,000
Town of Harbor Breton	Fortune Bay - Cape La Hune	3	38,850
Southern Area Development Association	Ferryland	4	64,560
Lewisporte Area Development Association	Lewisporte	9	120,454
Logy Bay-Middle Cove-Outer Cove Museum	Cape St. Francis	1	6,000
Pouch Cove Community Development Committee	Cape St. Francis	1	6,070
Town of Bauline	Cape St. Francis	1	3,039
Flatrock Museum	Cape St. Francis	1	1,900
Town of Flatrock	Cape St. Francis	1	6,600
Town of Pouch Cove	Cape St. Francis	1	3,150
Lion Max Simms Memorial Camp	Exploits	2	14,309
<b>Total Projects Examined</b>		<b>56</b>	<b>\$ 788,656</b>
<b>Program Total</b>		<b>462</b>	<b>\$ 4,203,649</b>

Source: Department of Municipal Affairs

For fiscal year 2004, we reviewed 36 projects in 19 districts represented by 25 sponsor groups. Details of these samples are outlined in Figure 3.

## Job Creation Program

Figure 3

**Department of Municipal Affairs  
Job Creation Program  
Summary of Sponsor Groups Reviewed  
Year Ending 31 March 2004**

<b>Sponsor Group</b>	<b>Electoral District</b>	<b>No of Projects</b>	<b>Total Funding</b>
Dorset Eskimo Carving Committee	Baie Verte	1	\$ 3,958
Arena Advisory Board	Grand Bank	2	10,000
St Andrews Anglican Church	Port de Grave	1	-
Rising Sun Developers Incorporated	The Straits and White Bay North	1	35,000
Town of Burnt Islands	Burgeo and La Poile	1	40,035
St. Barbe Development Association	St. Barbe	1	78,000
Gros Morne Complex	St. Barbe	1	6,000
Lion Maxx Simms	Exploits	1	532
Town of Dover	Terra Nova	1	15,674
Venture Fitness	Humber East	1	5,000
Diocesan Synod of Western Newfoundland	Humber East	2	11,350
Local Service District of Shoe Cove	Baie Verte	2	5,868
Summerside Lions Club	Bay of Islands	2	11,000
Town of Roddickton	The Straits and White Bay North	2	80,000
Town of Port Anson/Roberts Arm	Windsor - Springdale	1	10,000
Clarenville Area Recreation Centre	Trinity North	2	10,700
Loyal Orange Association #67	Harbour Main - Whitbourne	2	11,500
Local Service District of Gander Bay North	Bonavista North	1	16,000
Town of Fermeuse	Ferryland	1	19,722
Cape Shore Cattlemens Association	Placentia and St.Marys	2	36,750
McCarthy Council Knights of Columbus	Carbonear - Hr Grace	2	60,000
Town of Marystown	Burin - Placentia West	3	56,433
Museum of Logy Bay-Middle Cove- Outer Cove	Cape St. Francis	1	4,987
Town of Bauline	Cape St. Francis	1	5,513
Flatrock Heritage Committee	Cape St. Francis	1	4,370
<b>Total Projects Examined</b>		<b>36</b>	<b>\$ 538,392</b>
<b>Program Total</b>		<b>409</b>	<b>\$ 4,214,246</b>

Source: Department of Municipal Affairs

### Activities funded

Our review indicated that projects funded included activities such as:

- brush cutting;
  - painting, repairs and maintenance of community buildings;
  - slipway construction;
  - cleaning of whale bones;
  - mussel farm development;
  - compilation of town history;
  - gazebo construction;
  - development and enhancement of trail systems;
  - creation of not-for-profit fitness centre;
  - general arena operations; and
  - staffing of museum curator position.
- 

This report provides our findings in the following areas:

1. Program Funding
  2. Project Selection
  3. Project Monitoring
- 

### 1. Program Funding

We reviewed how the Department obtained funding for the Program as well as how the funding was allocated to electoral districts.

---

#### (a) Overall funding

### Funding not debated in House of Assembly

The Department did not include any funding for the Job Creation Program in its budget submission for approval by the House of Assembly. Instead, funding was historically obtained by the use of special warrants and intra-departmental transfers from other programs, and paid through the Special Assistance activity. As a result, there was no opportunity for the House of Assembly to debate and consider funding requirements.

---

**No support for district allocations**

### **(b) Allocation to electoral districts**

Although officials indicated that funding allocation was made by electoral district, there was no documentation available to show how much was allocated to each district or the basis for the allocation. Departmental officials indicated that while there was no documentation, elements such as employment rates, population, general economic statistics and historical funding levels were considered during the allocation process and that funding was allocated to districts after discussions among the Minister of Municipal Affairs, the Coordinator and applicable MHAs.

---

## **2. Project Selection**

We reviewed the following aspects of the project selection process:

- (a) Application evaluation
  - (b) Eligibility criteria
  - (c) Adherence to Program guidelines
  - (d) Approval process
  - (e) Rejected applications
- 

**Applications evaluated in isolation from others**

### **(a) Application evaluation**

Project applications must be submitted to the Department by a deadline stated in the Program guidelines. The guidelines indicate that applications will be processed on a first come, first served basis until all electoral district funding has been allocated. As a result:

- The merit of a project was not evaluated on an electoral district basis relative to other potential projects to maximize the effectiveness of the Program for the district.

As well, because funding is allocated by electoral district, there is no opportunity for the merit of projects to be evaluated on a Province-wide basis.

- By not waiting for the application deadline to close before evaluation of proposed projects, applications may not have been considered because the funding allocated to that electoral district had already been committed.
-

**Assessment  
process not  
documented**

### **(b) Eligibility criteria**

The Department established project eligibility criteria in order to optimize the number and nature of projects offered to communities across the Province. Projects submitted by sponsor groups must have met specific criteria to demonstrate that the project was:

- relatively short-term;
- labour intensive;
- small scale;
- capable of immediate start-up; and
- administered by the sponsor group (the applicant) as opposed to contractors.

The Department has not documented definitions for the “relatively short-term” and “small scale” criteria. As a result, without clarification of these criteria it was not possible to determine whether these criteria were met.

Our review of 92 project files indicated that none of the project files contained sufficient information to demonstrate that approved projects met all Program criteria.

---

**Funding  
approved  
despite non-  
compliance  
with guidelines  
in past projects**

### **(c) Adherence to Program guidelines**

The Program guidelines indicate that sponsor groups are not eligible for future project funding if they did not comply with Program guidelines in prior projects.

Our review indicated that 13 of the 25 sponsor groups we examined received funding for fiscal year 2005 even though they did not comply with Program guidelines for projects approved in 2004. For example, a sponsor group received \$78,000 in 2005 even though they had not complied with the guidelines for an approved project in fiscal year 2004. In this case, the sponsor group had employed individuals for more than the maximum 420 hours outlined in the guidelines.

---

### (d) Approval process

#### **Rationale for approvals not documented**

We noted in an earlier review by our Office in 1999 that the review committee did not hold regular meetings and did not keep a record of their decisions. This was also true of the committee which was reviewing and approving applications during our current review (consisting of the Minister of Municipal Affairs, the MHA responsible for the district, and the Job Creation Program Coordinator). This committee met as needed to review applications, with final approval resting with the Minister. Furthermore, there was no documentation in the project files to demonstrate the rationale for approvals.

---

#### **Additional funding issued without an application**

Our audit indicated that there was no established application process for additional funding requests which would provide details from the sponsor group on either the work to be completed or the rationale for the additional funding request. As well, there was no documentation indicating on what basis the additional funds were approved.

Of the 56 sponsor groups we reviewed for fiscal years 2005 and 2004, 22 received additional funding for either the continuation of the same project or for a new project. For 14 of these 22, a separate application had not been submitted by the sponsor group. In these cases, the original funding application was used to process the funding requests. Our review found that original applications were copied and the funding amount updated for the current request. As Figure 4 shows, the total additional funding approved for these 14 groups was \$60,100.

---

## Job Creation Program

Figure 4

**Department of Municipal Affairs  
Job Creation Program  
Additional Funding Issued Without Application  
Years Ending 31 March 2004 and 2005**

Sponsor Group	Electoral District	Original Funding	Additional Funding
<b>2004</b>			
Arena Advisory Board	Grand Bank	\$ 6,000	\$ 4,000
Diocesan Synod of Western Newfoundland	Humber East	11,000	350
Summerside Lions Club	Bay of Islands	9,000	2,000
Town of Roddickton	The Straits and White Bay North	70,000	10,000
Clarenville Area Recreation Centre	Trinity North	9,900	800
<b>Sub-total</b>		<b>\$105,900</b>	<b>\$17,150</b>
<b>2005</b>			
Isthmus Development Association	Bellevue	\$20,000	\$10,000
Town Council of Nain	Torngat Mountains	18,500	4,000
Keels Anglican Church Women	Bonavista South	18,000	3,000
Gros Morne Regional Complex	St. Barbe	14,000	1,500
Carmanville Habitat Committee	Bonavista North	7,500	2,500
Placentia West Development Association	Burin-Placentia West	45,000	4,000
Southern Area Development Association	Ferryland	11,460	8,100
Lion Max Simms Memorial Camp	Exploits	13,309	1,000
Town of Harbour Breton	Fortune Bay-Cape La Hune	30,000	8,850
<b>Sub-total</b>		<b>\$177,769</b>	<b>\$42,950</b>
<b>Total</b>		<b>\$283,669</b>	<b>\$60,100</b>

Source: Department of Municipal Affairs



## Job Creation Program

### Projects approved after the application deadline

Under the Program guidelines, applications are to be submitted by the deadline date; however, our review indicated that four sponsor groups received funding totalling \$17,083 even though their application was received after the application deadline. Figure 5 outlines details relating to these four sponsor groups.

Figure 5

### Department of Municipal Affairs Job Creation Program Application Processed After Deadline Years Ending 31 March 2004 and 2005

Sponsor Group	Electoral District	Funding	Time Passed Deadline
<b>2004</b>			
Cape Shore Cattlemen Association	Placentia and St. Marys	\$ 6,433	30 Days
Town of Marystown	Burin-Placentia West	6,750	40 Days
<b>Sub-total</b>		<b>\$13,183</b>	
<b>2005</b>			
Lewisporte Area Development Association	Lewisporte	\$ 2,900	54 Days
Lion Max Simms Memorial Camp	Exploits	1,000	68 Days
<b>Sub-total</b>		<b>\$ 3,900</b>	
<b>Total</b>		<b>\$17,083</b>	

Source: Department of Municipal Affairs

### (e) Rejected applications

### Insufficient documentation provided for rejected applications

Some applications submitted to the Department are rejected. Departmental officials provided the following examples of why an application may be rejected:

- funding has already been allocated to other groups in the electoral district;
- the scope and content of the application did not fit within the guidelines; or
- the application was received after the deadline.

## Job Creation Program

We reviewed 58 rejected applications (26 for 2005 and 32 for 2004) to determine on what basis the applications were rejected. Our review indicated the following issues:

- 37 of the 58 rejected applications were subsequently approved for funding even though they were similar in content and scope to the 21 rejected applications which were not subsequently approved; and
- there was no documentation to either explain the final resolution (approved/not approved) of the 58 applications or to evidence who determined and/or authorized the final resolution.

Details relating to the 58 applications are outlined in Figure 6:

**Figure 6**

**Department of Municipal Affairs  
Job Creation Program  
Sample of Rejected Applications  
Years Ending 31 March 2004 and 2005**

District	Total Rejected	Subsequently Approved	Not Approved
<b>2004</b>			
Twillingate and Fogo	10	1	9
The Straits and White Bay North	2	1	1
Bay of Islands	3	1	2
Burgeo and Lapoile	2	1	1
Grand Bank	15	12*	3
<b>Sub-total</b>	<b>32</b>	<b>16</b>	<b>16</b>
<b>2005</b>			
Cape St. Francis	1	1	-
Fortune Bay-Cape La Hune	4	3	1
Terra Nova	15	14	1
Humber East	1	-	1
Bellevue	5	3**	2
<b>Sub-total</b>	<b>26</b>	<b>21</b>	<b>5</b>
<b>Total</b>	<b>58</b>	<b>37</b>	<b>21</b>

Source: Department of Municipal Affairs

\* 1 of 12 projects was later approved for an amount greater than originally requested

\*\* One project was later approved for a Special Assistance Grant

### 3. Project Monitoring

#### Overview

The Department monitored projects by reviewing final reports which were required to be submitted by sponsor groups at the conclusion of each project. Final reports were due by 31 March and reports were to include employment cost details, copies of invoices to support numbers in the final report, and, copies of records of employment and payroll information. The final 25% payment should only have occurred after the Department received the final report. The initial 75% payment was issued when the project was approved.

The required contents of the final reports are outlined in the Program guidelines. The final reports are intended to show whether the project funding was used for the purposes intended and whether the sponsor groups met the following requirements:

- individuals employed were screened to establish if they were qualified for employment;
- labour costs were a minimum of 65% of the total costs of the project;
- overhead costs were a maximum of 25% of the total costs of the project;
- administration costs were a maximum of 10% of the total costs of the project;
- individuals were employed for a maximum of 420 hours;
- wages in excess of the Provincial minimum wage received prior approval from the Department;
- projects were completed by established deadlines; and
- project extensions received prior written approval from the Department.

### **Insufficient information provided by sponsor groups and no action taken by Department**

Our review of the Department's monitoring activities indicated that the final reports contained in sponsor group files examined did not include all required information in order for the Department to determine whether Program guidelines were followed and whether funds were being spent as intended. Furthermore, Departmental officials did not always take action to obtain information not provided by the sponsor groups. In fact the Department did not take action in cases where issues of non-compliance were identified in reports that did contain the required information.

---

### **Sponsor groups not complying with Guidelines**

During our review of final reports for 92 files, representing 56 sponsor groups, we identified the following:

- none of the sponsor groups provided sufficient documentation to establish if employees were qualified for employment;
- 3 sponsor groups had labour costs less than the minimum 65% of total project costs;
- 10 sponsor groups had overhead costs in excess of the maximum 25% of total project costs;
- 19 sponsor groups had employees who worked for more than the maximum 420 hours over the life of the projects;
- 24 sponsor groups paid employees at a rate higher than the Provincial minimum wage, and of these, 22 had not received the required prior approval from the Department to pay at the higher rate; and
- 12 projects were completed after the deadline provided in the Program guidelines without having the extension approved by the Department.

We also found other areas where files did not include supporting documentation for information included in final reports. In particular:

- 5 files did not include invoices for materials purchased;
- 4 files did not include support for mileage claims paid;

- 4 files did not include Records of Employment; and
  - 10 files did not include payroll information - in particular, information relating to Workplace Health and Safety Compensation Commission premiums.
- 

### **Inadequate report review documentation**

Departmental officials indicated that the Coordinator and designated staff are required to review the final reports. Whether a review had been completed was indicated by notations made on the report and not by a formal sign-off process. Of the 92 files reviewed, 1 did not have a final report as the project was cancelled, 1 did not have any evidence of review, 3 were evidenced as being reviewed by the Coordinator and 87 were evidenced as being reviewed, but since initials were rarely present, it was unclear which staff member completed the review. None of the reports indicated when these reviews were completed.

---

### **Final payments made before project completed**

Although a final report was submitted for 91 of the 92 project files reviewed, we were unable to determine when these reports were received since they were not date stamped. Therefore, we were not able to determine whether the final payments were made before or after the final report was received.

We were, however, able to determine that the final 25% payment for 21 projects was released before the project was completed. In 19 of these cases, there was evidence that the sponsor groups asked the Department to issue the remaining funds before the project was completed. The Department complied and issued payment. For the remaining 2 projects, we could not determine why the final payment was issued before the project was complete.

---

### Recommendations

---

#### *The Department should ensure:*

- *funding for all Departmental programs is included in budget submissions to allow for debate and consideration by the House of Assembly;*
  - *funding allocations are documented;*
  - *decisions relating to the approval and rationale for projects are documented;*
  - *all applications are given equal opportunity for selection;*
  - *guidelines for programs are complied with;*
  - *receipt date of program related information from funding recipients is documented; and*
  - *programs are adequately monitored.*
- 

### Department's Response

---

1. *Effective fiscal year 2006, funding for the Community Enhancement Program, formerly known as the Job Creation Program, was included in the Department's budget submission and will continue to be included in future years.*
2. *Funding was and continues to be allocated by electoral district based on prior year allocations. For fiscal year 2006, on a percentage basis, the allocation matched districts' allocation for last year. The actual district allocation and the basis for the allocation was clearly articulated to each MHA in a letter from the Minister.*

*Most years, after the initial district allocations are communicated, the department makes some adjustments based on input from MHAs concerning recent employment conditions in some districts. The result is that over the eleven years of the program's existence there has been a gradual rebalancing of district allocations, and the department considers the current allocation to be a reasonable proxy of relative need across districts. However, during fiscal year 2007, the department will explore the possibility of developing a more objective needs-based model and allocation formula.*

3. *In 2006, the department revised its program guidelines and its project ranking and approval process. The program's published guidelines now include four levels of priority for sponsors to consider when developing proposals. Immediately after the application deadline, an interdepartmental committee reviewed and ranked all projects within each electoral district based on the four priority levels. Completed ranking sheets on all projects were provided to each MHA under cover letter from the Department's Minister who encouraged MHAs to recommend the higher priority projects. While the Department will continue this process, MHAs will continue to be permitted to have significant input into the project selection process given their knowledge of their respective districts.*

*Given the distribution of need throughout the province, the audit suggestion that applications be assessed on a province-wide basis is not practical. A large portion of projects of higher merit could exist in a specific region/district, and if the department attaches funding to all such projects there would be a disproportionate number of people in need being served in that particular area.*

*With the establishment of four levels of priority for projects in 2006, the department has begun a process intended to strengthen the overall focus and usefulness to communities of projects funded under the program. This process will likely take several years to achieve a significant shift in the focus of projects, and it will require the support of community-based sponsors and MHAs.*

*With respect to the concern that no documentation is received from sponsors when commitment amounts are revised, a project amendment form was introduced in 2006. The amendment form is used to document requests from sponsors for increased funding. As well as changes in the approved funding level for projects; the amendment form also documents the impact of funding changes on staffing levels and/or scope of work.*

*The application ranking process introduced in 2006 provides a clear basis for determining which applications are approved and which are rejected. Additionally, commencing in 2006, all sponsors whose applications were rejected received written notification of that decision.*

4. *The application review and approval process implemented in 2006 now ensures all applications received by the deadline are reviewed and ranked at the same time.*
5. *The department recognizes that increased attention is required to ensure sponsors comply with program guidelines and to address sponsors that do not comply with the guidelines. In 2006, the standard project approval letter was revised to indicate that failure to comply with the program guidelines would impact the amount of the final project payment and could result in the sponsor being ineligible for funding in future years. Also in 2006, sponsors for whom compliance issues were recorded in the previous year received an additional letter from the Minister indicating that they will jeopardize the final payment for their project if compliance issues were identified again this year. The department is monitoring projects for compliance with the guidelines and will, if necessary, apply penalties for non-compliance.*
6. *All final reports will be date stamped in the future and signed by appropriate staff as reviewed and approved.*
7. *The measures outlined in Items 5 and 6 above indicate that the department has significantly strengthened its project monitoring activities in 2006.*

*However addressing the observation that the department receives no documentation to confirm that each employee was qualified to work on a project is problematic. The only means a sponsor has to confirm actual hours needed by an individual to qualify for EI benefits is the employee's declaration.*

---





## Highlights

Highlights of a review of the Agriculture Policy Framework Initiative (APFI) for the period 1 April 2003 to 31 October 2005.

### Why our Office Did this Review

We undertook this review to determine whether applications were adequately assessed and approved and whether claims under approved projects were adequately monitored and verified. We also assessed whether performance indicators have been established, and actual results have been reported against these objectives to evaluate the outcomes of the APFI.

### What our Office Recommends

Our Office recommends that the Department develop a policy to guide the APFI Implementation Committee in approving funding for related businesses with common ownership and develop specific criteria outlining under which circumstances the Committee may consider approving excess funds. We also recommend that the Department:

- ensure required documentation is on file to support applications;
- ensure that information is provided to support expenses claimed by applicants;
- verify other sources of funding being provided to the applicant;
- complete inspections for all projects in accordance with APFI policy;
- develop guidelines for the content of project reports and require that reports be submitted after the project is completed;
- develop guidelines for the compliance audit process and complete audits accordingly; and
- meet reporting requirements under the Federal-Provincial agreement.

### What the Department Said

To provide balance to this report and to ensure full disclosure, the Department was asked to formulate a response to our findings and conclusions. The Department's response, verbatim, is included at the end of this report. Readers are encouraged to consider the Department's comments in this regard.

◆ ◆ ◆ ◆ ◆

To view the full report, refer to the web site [www.gov.nl.ca/ag/reports.htm](http://www.gov.nl.ca/ag/reports.htm). For more information, contact Nina Goudie, Director of Information Resources, 709-729-2346 or [ninagoudie@gov.nl.ca](mailto:ninagoudie@gov.nl.ca).

Chapter 2, Part 2.14

### DEPARTMENT OF NATURAL RESOURCES Agriculture Policy Framework Initiative

In May 2003, the Government of Canada and the Province of Newfoundland and Labrador entered into a 5 year agreement for the development of agriculture in the Province. As part of this agreement, \$30.1 million (60% Federal and 40% Provincial) in funding was approved under the Agriculture Policy Framework Initiative (APFI). The objectives of the APFI are to enhance the economic sustainability of the industry; support the commercialization and introduction of new technologies and processes; support industry diversification and/or secondary processing; and enhance the competitiveness of the industry.

### What We Found

Our review of 35 project files identified significant issues with the APFI related to instances where documentation was not on file to support payments; not all required inspections were performed; not all required inspection information was on file; no compliance audits were conducted; final project reports were not always required; and significant funding was provided to related parties.

Furthermore, the Department is not providing the Federal government with the required quarterly financial and management reports. We also found that, although audited financial statements and management letters were provided, they were not provided within timeframes established in the Agreement. In summary, the Department is not exercising a level of due diligence to ensure that funding provided for approved projects is meeting and advancing the goals of the APFI.

#### (a) Weaknesses in assessment and approval of projects

There is no documented policy to guide the Implementation Committee in approving funding for related businesses with common ownership. This is significant in that of the total funding of \$11.3 million approved for 304 producers from 1 April 2003 to 31 October 2005, the amount approved for related producers was \$2.3 million for 12 producers. Therefore, 20% of the funds were paid to 4% of producers, all of which were related applicants.

There were no specific criteria outlining under which circumstances the Committee may consider approving excess funds. As a result, projects with similar circumstances may or may not have excess funds approved.

Provincial Government projects were funded differently than projects for producers. The maximum level of funding which can be approved for Government projects is 100% of project costs, whereas the maximum level of funding for producers is 50%. As a result, there is less funding available for projects proposed by producers.

#### (b) Improvements required in monitoring of projects

Our review of 35 projects identified that improvements are needed in the verification of claims, the inspection of projects and the monitoring of a project's progress. It is important for the Department to monitor the progress of projects to ensure that funding is used for the intended purpose and for the continuing benefit of the agricultural industry in the Province. This would include follow-up of projects after they have been completed.

#### (c) Inadequate reporting on the status of the APFI

The monitoring and reporting of approved agriculture projects is not adequate to determine if expected project outcomes are materializing and ultimately whether they are advancing the common goals of the APFI.

### Introduction

---

#### Overview

In May 2003, the Government of Canada and the Province of Newfoundland and Labrador entered into a 5 year agreement for the development of agriculture in the Province. As part of this agreement, \$30.1 million (60% Federal and 40% Provincial) in funding was approved under the Agriculture Policy Framework Initiative (APFI). The objectives of the APFI are to:

- enhance the economic sustainability of the industry;
- support the commercialization and introduction of new technologies and processes;
- support industry diversification and/or secondary processing; and
- enhance the competitiveness of the industry.

The APFI is overseen by a Management Committee comprised of a Federal and Provincial delegate. The Management Committee has delegated authority for the implementation of the APFI to an Implementation Committee consisting of one Federal, one Provincial and one industry representative. Department of Natural Resources' staff are responsible for the day to day administration of the APFI.

---

#### Activity by project type

For the period from 1 April 2003 up to 31 October 2005, a total of 563 applications for funding were approved through the APFI. Eligible applicants included:

- Producers (agricultural producers, processors, partnerships, corporations and cooperatives);
- Associations (not-for-profit agricultural industry organizations, associations and educational institutions); and
- Government (Provincial government departments and agencies).

Figure 1 provides a summary of projects approved and funded up to 31 October 2005.

Figure 1

**Agriculture Policy Framework Initiative  
Projects Approved and Funded  
2003-04 to 31 October 2005**

	2003-04		2004-05		7 months to 31 October 2005		Total	
	#	(\$000s)	#	(\$000s)	#	(\$000s)	#	(\$000s)
<b>Projects Approved (note 1)</b>								
Producers	54	\$1,346	111	\$4,433	139	\$5,549	304	\$11,328
Associations	31	537	55	1,348	57	1,892	143	3,777
Provincial Government	41	2,529	31	2,595	44	3,857	116	8,981
<b>Total Approved</b>	<b>126</b>	<b>\$4,412</b>	<b>197</b>	<b>\$8,376</b>	<b>240</b>	<b>\$11,298</b>	<b>563</b>	<b>\$24,086</b>
<b>Projects Payments</b>								
Producers	46	1,256	90	2,832	21	906	157	4,994
Associations	23	322	46	842	32	561	101	1,725
Provincial Government	33	1,726	28	1,867	32	1,189	93	4,782
<b>Total Payments (note 2)</b>	<b>102</b>	<b>\$3,304</b>	<b>164</b>	<b>\$5,541</b>	<b>85</b>	<b>\$2,656</b>	<b>351</b>	<b>\$11,501</b>

Source: Department of Natural Resources' APFI monitoring reports.

Note 1: Projects approved are reported on an annual basis and include carry-over projects, deferred projects and multi-year projects.

Note 2: In addition to the \$11.5 million spent on projects, the Province also spent \$0.8 million on administration and \$0.3 million on an income stabilization program for farmer disaster assistance.

---

As Figure 1 shows, \$11.5 million of the total \$30.1 million funding available under the Agreement has been spent on projects as of 31 October 2005.

---

## Audit Objectives and Scope

---

### Audit objectives

The objectives of our review were to determine whether:

- applications were adequately assessed and approved;
  - claims under approved projects were adequately monitored and verified; and
  - performance indicators and measurable targets have been established, and actual results have been reported against these objectives to evaluate the outcomes of the APFI.
- 

### Audit scope

We completed our review of the APFI in February 2006. Our review covered projects approved for the period 1 April 2003 to 31 October 2005, and included discussions with Departmental staff and an examination of the APFI agreements, policies and procedures, monitoring reports, committee minutes and project files.

---

## Conclusions

---

### Overview

During the period 1 April 2003 to 31 October 2005 the Department spent \$11.5 million on projects, or 38.2% of the \$30.1 million (60% Federal and 40% Provincial) allocated to the Agriculture Policy Framework Initiative (APFI).

Our review of 35 project files identified significant issues with the APFI related to:

- instances where documentation was not on file to support payments;
- not all required inspections were performed;
- not all required inspection information was on file;
- no compliance audits were conducted;
- final project reports were not always required; and
- significant funding was provided to related parties.

We also found that the level of funding provided for Government projects (100%) is inconsistent with that of producers (50%). Of the \$11.5 million in payments made from 1 April 2003 to 31 October 2005, Government received \$4.8 million or 42%.

Furthermore, the Department is not providing the Federal government with the required quarterly financial and management reports. We also found that, although audited financial statements and management letters are provided, they are not provided within timeframes established in the Agreement.

In summary, the Department is not exercising a level of due diligence to ensure that funding provided for approved projects is meeting and advancing the goals of the APFI.

---

### Weaknesses in assessment and approval of projects

Our review identified the following issues with the way the Department is assessing and approving applications.

- There is no documented policy to guide the Implementation Committee in approving funding for related businesses with common ownership. This is significant in that of the total funding of \$11.3 million approved for 304 producers from 1 April 2003 to 31 October 2005, the amount approved for related producers was \$2.3 million for 12 producers. Therefore, 20% of the funds were paid to 4% of producers, all of which were related applicants.
  - There are no specific criteria outlining under which circumstances the Committee may consider approving excess funds. As a result, projects with similar circumstances may or may not have excess funds approved.
  - Provincial Government projects are funded differently than projects for producers. The maximum level of funding which can be approved for Government projects is 100% of project costs, whereas the maximum level of funding for producers is 50%. As a result, there is less funding available for projects proposed by producers. Payments for Provincial Government projects from 1 April 2003 to 31 October 2005 were \$4.8 million (funding approved at 100% of project costs) of total payments of \$11.5 million. For the same period, payments for producer projects totalled \$5.0 million (funding approved at a maximum of 50% of project costs).
-

### Improvements required in monitoring of projects

Our review of 35 projects identified that improvements are needed in the verification of claims, the inspection of projects and the monitoring of a project's progress. It is important for the Department to monitor the progress of projects to ensure that funding is used for the intended purpose and for the continuing benefit of the agricultural industry in the Province. This would include follow-up of projects after they have been completed.

- Sufficient and appropriate information was not provided to support claims totalling \$1,518,590 in 18 of 35 projects reviewed. For example, invoices for producers and associations were either not always on file to verify amounts claimed or were not in the applicant's name, and administrative charges were not adequately supported.
- There was no verification of other sources of funding indicated as being provided to the applicant by other agencies.
- Of the 35 projects reviewed, inspections were not completed on 9, of which 5 were Government. In addition, of the remaining 26 projects, 25 had inspections completed, and 1 had not submitted a claim. Of these 25 completed inspections, we identified issues with 16 files. Issues included 4 instances where equipment was claimed but not on site at the time of the inspection, 14 instances where required digital pictures were not attached to the inspection certificate to support the claim and 4 instances where serial numbers of equipment claimed was not identified.
- 18 of the 35 applicants which had approved funding totalling \$2.4 million, were not required to submit a project report after the project was completed. The reports that were submitted by other applicants were in different formats and in varying detail ranging from a 1-page handwritten memo to formal reports. APFI policy does not provide the circumstances under which project completion reports will be required. Also, when reports are required, there are no guidelines as to what is to be reported.
- None of our 35 sampled projects had been subject to a compliance audit. APFI policy does not outline the circumstances under which these audits will be conducted. Furthermore, the Department has not developed a formal audit process for identifying risk factors for determining potential compliance audits or how they will be conducted.

### **Inadequate reporting on the status of the APFI**

The monitoring and reporting of approved agriculture projects is not adequate to determine if expected project outcomes are materializing and ultimately whether they are advancing the common goals of the APFI. Our review identified the following issues:

- Reporting requirements under the Federal-Provincial agreement are not being met. The required quarterly financial and management progress reports are not provided to the Federal Government, and annual financial statements and management letters are not provided in the timeframe established under the Agreement.
- The approval and expense monitoring report maintained by the Department which records information such as project description, applicant type, approved initiative, commodity, approved funding amount, actual expenses to date, and other sources of funding, had not been updated for actual amounts expended for the four months since 31 October 2005.

---

## **Findings and Recommendations**

---

### **Overview**

The Department of Natural Resources, in conjunction with the Management Committee and Implementation Committee for the APFI, are responsible for the administration and delivery of the APFI, including the establishment of application policies and procedures needed to implement the APFI.

In 2003-04, the Program Information Guide (updated in 2005-06) was developed which provided information on the general conditions of the APFI, application procedures, payment conditions, description and criteria of each program and initiative under the APFI, and contact information.

Figure 2 shows the number of initiatives for each program under the APFI as outlined in the Program Information Guide.

**Figure 2**

**Agriculture Policy Framework Initiative  
Programs and Initiatives**

<b>Programs</b>	<b># of Initiatives</b>
Food Safety and Security	7
Soil, Air and Water Quality, Conservation and Enhancement	8
Agrifood Business Development	6
Technology Adoption	5

Source: APFI Program Information Guide

**Summary of findings**

The findings from our review of the APFI are outlined in the following areas:

1. Assessment and approval of applications;
2. Monitoring of project claims and results; and
3. Reporting on status of the APFI.

**1. Assessment and Approval of Applications**

**Application process**

To be considered for funding, organizations must submit an application to the Department, complete with accompanying documentation such as an applicant profile, a business plan or project proposal, environmental assessment, and financial information. In the case of Government projects, all that is required to be submitted is a project proposal.

**Assessment process**

Applications are assessed by Department officials and starting in 2004-05 the applications were also assessed by working groups of Federal and Provincial representatives which were established for each APFI program area. Applications are assessed based upon the applicant's and project's eligibility and whether the project meets the objectives of the particular initiative applied under. Based upon their assessments, Department officials and working groups make recommendations to the Implementation Committee for approval.



**Approval for funding**

The Implementation Committee reviews the application and recommendations provided and either approves, rejects or defers the project. If approved, a project authorization form is completed and a Contribution Agreement is prepared for signing by the applicant. If the application is rejected, a letter to this effect is provided to the applicant by the APFI Manager.

The APFI Program Information Guide establishes maximum funding limits as shown in Figure 3; however, the Implementation Committee has the authority to approve funding above the established limits.

**Figure 3**

**Agricultural Policy Framework Initiative  
Funding Guidelines**

Type of Applicant	Gross Annual Sales	Annual Maximum	Project Maximum
Producer, processor, partnership, corporation or cooperative	\$10,000 - \$24,999	\$10,000	\$50,000
Same as above	\$25,000 - \$49,999	\$15,000	\$75,000
Same as above	\$50,000 - \$99,999	\$20,000	\$100,000
Same as above	\$100,000 or greater	\$30,000	\$150,000
Same as above - new entrants	N/A	\$10,000	\$50,000
Associations and government	N/A	No funding limit	
<b>Portion Funded</b>			
Producer, processor, partnership, corporation: 50% of project costs			
New Entrants: 50% of project costs			
Cooperatives: 75% of project costs			
Associations and government: 100% of project costs			

**Findings**

Our review included an examination of 35 project applications for the period 1 April 2003 to 31 October 2005: 23 for producers; 7 for associations; and 5 for the Provincial government. These applications resulted in funding being approved to a total value of \$6,095,841. Details of our sample are outlined in Figure 4.

**Figure 4**

**Agriculture Policy Framework Initiative  
Project Samples Reviewed  
1 April 2003 to 31 October 2005**

<b>Organization Type</b>	<b>Samples Selected</b>	<b>Amount Approved</b>	<b>Amount Paid</b>
Producers	23	\$ 3,545,000	\$ 3,524,388
Associations	7	831,309	730,549
Provincial government	5	1,719,532	1,360,249
<b>Total</b>	<b>35</b>	<b>\$ 6,095,841</b>	<b>\$ 5,615,186</b>

In reviewing 35 application files we identified issues with:

- (a) documentation;
- (b) assessment of Provincial Government projects;
- (c) approval of excess funding; and
- (d) funding granted to related companies.

**Inadequate documentation**

**(a) Documentation**

We found that documentation on file was inadequate for one producer project. In this instance, the producer purchased a different piece of equipment than was initially approved. Applicants to the APFI must demonstrate that their project meets the objectives and criteria under which the particular initiative the project was approved. In this case, the project was approved for \$236,250 under the New Technologies Initiative for the purchase of specialized land clearing equipment at \$315,000 (75% funding). Although the applicant obtained prior approval from the Implementation Committee to purchase alternate land clearing equipment, there was no documentation on file to show that an assessment of the alternate equipment had been made to ensure it met APFI criteria. The alternate equipment was later purchased by the applicant.

**Inconsistencies in how Provincial government projects are funded**

### **(b) Funding of Provincial Government Projects**

Provincial Government projects are funded differently than projects for producers. The maximum level of funding which can be approved for Government projects is 100% of project costs, whereas the maximum level of funding for producers is 50%. As a result, there is less funding available for projects proposed by producers. Provincial government projects approved from 1 April 2003 to 31 October 2005 were for funding totalling \$9.0 million (funding approved at 100% of project costs), while for the same period projects for producers were approved for funding totalling \$11.3 million (funding approved at a maximum of 50% of project costs).

**No specific criteria for approving excess funding**

### **(c) Approval of Excess Funding**

Although the APFI Program Information Guide establishes maximum funding limits, the Implementation Committee has the authority to approve funding above the established limits. While the Guide provides general circumstances under which excess funding can be approved, such as in cases where there are “*identified need*” and “*reach and benefit to the provincial agrifoods industry*”, there are no specific criteria outlining under which circumstances the Committee may consider approving excess funds.

As a result, projects with similar circumstances may or may not have excess funds approved.

**No policy on funding to related applicants**

### **(d) Funding Granted to Related Applicants**

There is no documented policy to guide the Implementation Committee in approving funding for related businesses with common ownership. Such a policy would provide for the equitable distribution of available funding to all applicants rather than providing these funds to a smaller pool of related applicants.

This is significant in that of the total funding of \$11.3 million approved for 304 producers from 1 April 2003 to 31 October 2005, the amount approved for related producers was \$2.3 million for 12 producers. Therefore, 20% of the funds were paid to 4% of producers, all of which were related applicants.

Figure 5 provides details on these five ownership groups.

---

Figure 5

**Agriculture Policy Framework Initiative  
Details on Funding Granted to Related Applicants**

Ownership Group #	Related Applicants	Common Owners	Amount Approved per Applicant	Total
1	Harcourt Fur Farm Inc. Charleston Mink Co. Ltd.	Jorn Morgenson	\$150,000 150,000	\$ 300,000
2	Humber Valley Potato Co. Inc. Campbells Potato Farm Inc.	Michael Campbell	250,000 150,000	400,000
3	Walsh Brothers Agricultural Services Inc. Richard Walsh (Oceanview Farms) Robert & David Walsh (Glenview Farms)	Robert, Richard and David Walsh	129,750 87,000 144,600	361,350
4	Central Vegetable Products Ltd. Cyril Fudge (Rolling Acres) Kent Fudge (Mountainview Farms)	Cyril and Kent Fudge	187,500 286,953 38,950	513,403
5	Wholesome Dairy CC Land Development	Brent Chaffey and Gerard Cormier	500,000 236,250	736,250
				<b>\$2,311,003</b>

**2. Monitoring of Project Claims and Results**

**Overview**

The Department indicated that it monitors projects approved under the APFI by:

- verifying expenses included in submitted project claim forms;
- performing on-site inspections of the project;
- reviewing project reports submitted by applicants upon the completion of projects; and
- performing compliance audits by Department officials.

### Claims process

Once a project is complete, the applicant must prepare and submit a Project Claim Form to claim for eligible costs. Project Claim Forms must be supported with:

- invoices for purchased goods and services;
- cancelled cheques for third-party labour costs; and
- a listing of all sources of funding received.

Before a claim is processed, an inspection certificate must be on file, detailing on-site inspections conducted by the Department, along with attached pictures.

---

### Findings

Our review identified significant issues in the verification and validation of claimed expenditures. Issues identified during our review are outlined in the following sections.

- (a) Documentation;
  - (b) Expense claims;
  - (c) Inspections;
  - (d) Other funding sources;
  - (e) Project completion reports; and
  - (f) Project compliance audits.
- 

### Inadequate documentation

#### (a) Documentation

Our review of project claims identified 22 issues in 18 of the 35 project files reviewed in terms of the sufficiency and appropriateness of documentation to support claimed amounts. Details are as follows:

- 4 of the 23 producer project claims examined included quotes to support the expenditure claimed. However, copies of invoices were not on file to verify amounts claimed totalling \$456,568. Details are as follows:

Entity	Amount
Central Vegetable Products Ltd.	\$201,675
Hammond Farm Ltd.	107,097
Stony Ridge Farms Ltd.	77,900
Natural Newfoundland Nutraceuticals Inc.	69,896
<b>Total</b>	<b>\$456,568</b>

- 4 of the 23 producer project claims examined included invoices in the name of related companies, and although the expenses claimed appeared to be in line with the project approved, we were unable to determine whether these expenses, totalling \$741,874 were in fact, incurred by the project applicant. Details are as follows:

Entity	Amount
Wholesome Dairy Ltd.	\$629,264
Natural Newfoundland Nutraceuticals Inc.	59,507
Harbour International Ltd.	31,303
Walsh Brothers Agricultural Services Inc.	21,800
<b>Total</b>	<b>\$741,874</b>

- 1 of the 23 producer project claims examined included the purchase of certain assets of an existing farming operation; however, there was no appraisal on file to support the \$230,000 fair market price accepted for the assets purchased. Details are as follows:

Entity	Amount
Kristopher Fudge	\$230,000

- 1 of the 7 association project's claims examined included invoices totalling \$36,018 from a company that the association had partnered with. Although the company was recouping amounts paid to a third party supplier, original invoices from the third party supplier were not included to support the claim. Details are as follows:

<b>Entity</b>	<b>Amount</b>
NL Horticulture Producers Council Inc.	\$36,018

- 4 of the 7 association projects examined included an administration charge for each of the project proposals (\$3,000; \$6,380; \$18,000 and \$20,000) ranging from 4% of 26% of total expenditures; however, the APFI does not have a policy regarding the limit of administrative charges claimable by associations. Details are as follows:

<b>Entity</b>	<b>Amount</b>
NL Horticulture Producers Council Inc.	\$ 3,000
NL Livestock Council	6,380
NL Horticulture Producers Council Inc.	18,000
NL Federation of Agriculture	20,000
<b>Total</b>	<b>\$47,380</b>

- 2 of the 4 projects did not provide third party invoices and payroll records to support the claimed administrative charges totalling \$23,000. Furthermore, 1 of these 2 projects was \$17,357 less than projected costs of \$94,750; however, 100% of the projected administration charge totalling \$20,000 was claimed and paid. Details are as follows:

<b>Entity</b>	<b>Amount</b>
NL Horticulture Producers Council Inc.	\$ 3,000
NL Federation of Agriculture	20,000
<b>Total</b>	<b>\$23,000</b>

- 1 of the 7 association projects examined included a flat 15% fee for mandatory employer payroll costs totalling \$6,750 based on projected payroll costs of \$45,000. However, based on actual payroll costs of \$33,600 claimed by the association, the 15% fee would amount to only \$5,040. The association was paid \$6,750, therefore, the claim was overpaid by \$1,710 (\$6,750 less \$5,040). Details are as follows:

<b>Entity</b>	<b>Amount</b>
NL Federation of Agriculture	\$6,750

- None of the 5 Government projects examined had documentation on file to support project expenditures totalling \$1.4 million. Government expenditures are reported through the Province's financial management system and, as such, are processed and approved as any other Government expenditure. However, Government project expenditures are not reviewed prior to payment by the APFI accountant or program manager to ensure they relate to the approved project as done for producer and association projects. Government projects accounted for 42% (\$4.8 million) of the total payments (\$11.5 million) up to 31 October 2005.

For 1 of the 5 Government projects reviewed, we identified 19 purchases over a period of 18 months for 55 light truck tires totalling \$8,837 which were charged to the project's account. However, invoices to support the purchase did not always provide specific vehicle information to determine whether these purchases related to the project.

**(b) Expense claims**

**Ineligible expenses claimed**

Our review of project claims identified concerns with the eligibility of certain expenses claimed by applicants. For example:

- Certain marketing costs were denied on 1 producer claim because a marketing plan had not been submitted; however, the same claim included salary costs of \$18,092 for an employee identified in file correspondence as a marketing director. This portion was approved for payment. This particular project was approved based on the condition that payment of marketing costs would be subject to submission of a marketing plan. Details are as follows:



<b>Entity</b>	<b>Amount</b>
Natural Newfoundland Nutraceuticals Inc.	\$18,092

- 1 claim included \$795 for a brokerage fee on corking equipment that was not part of the proposal but which was used by a related company. The invoice supporting the claim was also in the name of the related company. Details are as follows:

<b>Entity</b>	<b>Amount</b>
Natural Newfoundland Nutraceuticals Inc.	\$795

**(c) Inspections**

**Inspections not adequate**

The project inspection is an important monitoring and control process in the verification and validation of expenditures claimed. Departmental officials are required to conduct an on-site inspection to determine the project's status and to verify project claims.

An inspection certificate is to be completed which records information related to the claimed land, equipment, facility, or other eligible activity. Digital pictures are to be attached to the inspection certificate. Our review of 35 project files identified the following:

- Although inspection certificates were required for 6 of the 7 association projects (the 7th association project reviewed had not submitted a claim), 4 were not on file for which claims totalling \$238,840 were paid.

<b>Entity</b>	<b>Amount</b>
NL Livestock Council	\$ 84,475
NL Federation of Agriculture	76,365
Egg Producers of NL	40,000
NL Horticulture Producers Council Inc.	38,000
<b>Total</b>	<b>\$ 238,840</b>

- None of the 5 government projects reviewed with costs totalling \$1.4 million had inspection certificates on file.
- Inspection certificates were on file for the 23 producer projects reviewed for which claims were paid totalling \$3.5 million.

Furthermore, we found 22 issues with 16 of the 25 projects where an inspection certificate was on file. Details are as follows:

- 14 projects with claims paid totalling \$1,960,248 did not have pictures attached to support the inspection made as required by APFI policy. Details are as follows:

Entity	Amount
Wholesome Dairy Ltd.	\$ 500,000
NL Dairymens Association -Eastern Region	250,500
Green Valley Farms Inc.	150,000
Viking Fur Inc.	150,000
Nu Mink Inc.	150,000
Harbour International Ltd.	150,000
Harcourt Fur Farm Inc.	150,000
Natural Newfoundland Nutraceuticals Inc	134,923
Walsh Brothers Agricultural Services Inc.	129,750
Stoney Ridge Farms Ltd.	103,205
Rubys Farm Ltd.	27,870
Richard Walsh	27,000
Jumpers Brook Blueberry Farm Ltd.	20,000
Elvis R. Gillam Ltd.	17,000
<b>Total</b>	<b>\$ 1,960,248</b>

- 4 inspection certificates identified equipment costing a total of \$158,656, which was claimed but not on site at the time of the inspection. Notations were made on the inspection certificate that the equipment would soon be delivered. There was no evidence on file to indicate that the payment was held until the equipment was delivered or that the equipment had been delivered and inspected after the payment had been made. Details are as follows:

<b>Entity</b>	<b>Amount</b>
Stoney Ridge Farms Ltd.	\$ 77,900
Natural Newfoundland Nutraceuticals Inc.	69,896
Elvis R. Gillam Ltd.	6,360
Humber Valley Potato Company Inc.	4,500
<b>Total</b>	<b>\$158,656</b>

- 4 inspection certificates did not record serial numbers of equipment purchased at a total cost of \$867,828 as required on the inspection form. Details are as follows:

<b>Entity</b>	<b>Amount</b>
Natural Newfoundland Nutraceuticals Inc.	\$340,678
CC Land Developments Inc.	325,000
Walsh Brothers Agricultural Services Inc.	178,050
Elvis R. Gillam Ltd.	24,100
<b>Total</b>	<b>\$867,828</b>

**(d) Other funding sources**

**Other sources of funding not verified**

Departmental officials indicated that only producer projects have other sources of funding and that Government projects and association projects typically would not.

All 23 producer project files reviewed contained information identifying other sources of funding in the project proposals or business plans, whether from the applicant, Federal agencies, Provincial agencies or private lending institutions.

In accordance with the agreement, recipients are also required to provide all sources of funding when a project claim is submitted. Our review identified the following:

- Producers generally provided information on sources of funding with the project claim; however, there was no verification of these amounts by APFI staff to ensure they were accurate and complete. For example, documentation for one project with approved funding totalling \$400,000, which was funded 74% by Federal and Provincial governments, identified difficulties APFI staff had in determining the accuracy and completeness of Federal funding reported. Details are as follows:

<b>Entity</b>	<b>Amount</b>
Natural Newfoundland Nutraceuticals Inc.	\$400,000

- APFI policy requires that funding from all Government sources spent on any one approved project not exceed 75% of total project costs. Our review identified 1 project with approved funding totalling \$150,000, where approved Federal and Provincial funding totalled 100% of total actual project costs. Details are as follows:

<b>Entity</b>	<b>Amount</b>
Newfoundland Bee Company Ltd.	\$150,000

**(e) Project completion reports**

**Project results not adequately reported**

As part of the project approval process, the Implementation Committee identified those projects for which the applicant will be required to submit a project completion report once the project has been completed. However, APFI policy does not provide the circumstances under which such reports will be required.

The provision of such reports assists in determining whether projects are completed in accordance with the project proposal or business plan and whether the project meets the objectives of the APFI. Our review of 35 project files identified the following issues:

- 18 of the 35 organizations which had approved funding totalling \$2,424,843, were not required to submit a project report after the project was completed. One of the 18 (NL Horticulture Producers Council Inc.), with approved funding of \$38,000, did submit a report. Details of the 17 organizations with approved funding totalling \$2,386,843, which did not submit a project report, are as follows:

<b>Entity</b>	<b>Amount</b>
Wholesome Dairy Ltd.	\$500,000
Humber Valley Potato Company Inc.	250,000
NL Livestock Council	170,228
Newfoundland Bee Company Inc.	150,000
Viking Fur Inc.	150,000
Nu Mink Inc.	150,000
Pond View Farms Ltd.	150,000
Harbour International Ltd.	150,000
Hammond Farm Ltd.	150,000
Stoney Ridge Farms Ltd.	150,000
Kristopher Fudge	128,750
NL Federation of Agriculture	76,365
Rubys Farm Ltd.	75,000
Newfoundland Hatchery Ltd.	72,500
Richard Walsh	27,000
Jumpers Brook Blueberry Farm Ltd.	20,000
Elvis R. Gillam Ltd.	17,000
<b>Total</b>	<b>\$2,386,843</b>

- Of the 17 organizations required to submit a report, 2 with approved funding totalling \$366,000, did not submit a report. Furthermore, reports for 2 other organizations, with approved funding totalling \$335,652, were submitted 10 months and 24 months after the required date, and then only after being contacted by the Department. Details are as follows:

<b>Entity</b>	<b>Amount</b>	<b>Report</b>
CC Land Developments Inc.	\$236,250	None submitted
Walsh Brothers Agricultural Services Inc.	129,750	None submitted
<b>Total</b>	<b>\$366,000</b>	

<b>Entity</b>	<b>Amount</b>	<b>Report</b>
Central Vegetable Products Ltd.	\$187,500	10 months late
Green Valley Farms Inc.	148,152	24 months late
<b>Total</b>	<b>\$335,652</b>	

- APFI policy does not provide guidance to applicants on the preparation of project reports. Producer and association project reports received were in different formats and ranged from a one-page hand-written memo to a formal report.
- The 5 Government project completion reports did not include any cost information or explanation for variances in budgeted project costs. In addition, the Government projects examined are ongoing multi-year projects. The annual reports did not clearly indicate time-lines for the projects or at what stage the projects were in meeting the objective and targets of the initiative under which they were approved. These 5 projects and the amounts of funding paid totalling \$1,360,249, are outlined in Figure 6.

**Figure 6**

**Agriculture Policy Framework Initiative  
Government Projects Reviewed**

<b>Government Project</b>	<b>Funding</b>
Consumer awareness campaign	\$ 124,536
Alternative crop initiative	251,359
Alternative feeds program	274,433
GIS mapping and GPS data	190,684
Water quality and conservation initiative	519,237
<b>Total</b>	<b>\$1,360,249</b>

No project compliance audits conducted

**(f) Project compliance audits**

In accordance with APFI policy, Department staff have the authority to conduct compliance audits of completed projects. The Guide does not outline the circumstances under which these audits will be conducted. Department staff indicated that compliance audits are conducted when and if the need arises; however, they too were unable to define under what circumstances the audits would be conducted.

Our review indicated that none of the 35 sampled projects had been subject to a compliance audit. Furthermore, the Department has not developed a formal audit process for identifying risk factors for determining potential compliance audits or how they will be conducted.

---

**3. Reporting on the Status of the APFI**

---

Overview

The Department's responsibilities for reporting on the APFI are provided for in a Federal-Provincial agreement. The agreement requires the Department to establish and maintain application, accounting and reporting systems to implement the agreement. In addition, the Department is required to provide the following:

- financial and management reports on a quarterly basis to the Federal Government;
- audited financial statements and management letter within 6 months of the fiscal year end (ie. 30 September); and
- annual performance management report on the activities and objectives of the various activities by 31 May of the following year.

---

Our review identified the following:

Reporting on the APFI not adequate

- The Department assigns a project number to each application and maintains a registration database which records general information on each application, the amount requested and the results of each application. Our review of the registration database indicated that the information on whether an application was approved, rejected, or deferred was not always recorded.

- The Department maintains an approval and expense monitoring report containing information for each approved project. This report records information such as project description, applicant type, approved initiative, commodity, approved funding amount, actual expenses to date, and other sources of funding. As of 28 February 2006 the latest report available only included information on actual expenditures up to 31 October 2005. This report had not been updated for actual amounts expended for the four months since 31 October 2005. Without up-to-date financial information on expenses, the Department cannot monitor and report on the APFI in a timely manner.
- The Department is required to provide quarterly financial and management progress reports to the Federal government describing the activities and objectives undertaken under the APFI and the results achieved in implementing the activities. Department staff indicated that they provide quarterly input sheets to the Federal Government for compliance purposes. However, our review of these input sheets indicated that they report actual and forecasted costs of APFI but do not report the results and status of the activities and objectives of each initiative.
- As of 28 February 2006, audited financial statements for the APFI were not available at the Department for either the 2003-04 or 2004-05 fiscal year ends. An audit for the two fiscal years was being conducted by a private sector auditing firm at the time of our review.

---

## Recommendations

---

*The Department should:*

- *develop a policy to guide the Implementation Committee in approving funding for related businesses with common ownership;*
- *develop specific criteria outlining under which circumstances the Committee may consider approving excess funds;*
- *ensure required documentation is on file to support applications;*



- *ensure that sufficient and appropriate information is provided to support expenses claimed by applicants;*
  - *verify other sources of funding being provided to the applicant;*
  - *complete inspections for all projects in accordance with APFI policy;*
  - *develop guidelines for the content of project reports and require that project reports be submitted after the project is completed according to such guidelines;*
  - *develop guidelines for the compliance audit process and ensure the audits are completed according to these guidelines; and*
  - *meet reporting requirements under the Federal-Provincial agreement.*
- 

### Department's Response

---

*It is the Department's opinion that this program is being delivered within a responsible context while exercising due diligence in the administration of the Canada-Newfoundland and Labrador Agricultural Policy Framework Implementation Agreement. The Department of Natural Resources acknowledges the comments of the Auditor General and offers the following comments for clarification.*

#### *Assessment and Approval of Applications*

*The Department maintains that all applications undergo an extensive assessment process involving an Industry Advisory Committee, Federal/Provincial Working Groups, an APF Implementation Committee, an APF Management Committee, and Departmental Staff Review. However, the Department acknowledges and welcomes your comments to improve upon the policies, criteria, and documentation used to support the decision-making process of these various Committees and Working Groups and will act on these recommendations.*

### Monitoring of Project Claims and Results

*The Department acknowledges and has noted your findings for improvements in the verification and validation of expenditures as they relate to documentation, ineligible expenditures, inspections, other sources of funding, and project completion monitoring. It should be noted that the Department has recently made several improvements in this area including a 10% holdback policy until projects requiring a completion report have submitted the report. For the 2007/2008 fiscal year, Project Leaders will also be required to prepare their budgets according to the Provincial Government Chart of Accounts and report on significant variances between budgeted and actual expenditures. The Department would also like to clarify that in 2006 approximately 56 compliance inspections were conducted on APF projects, a practice that will continue throughout the term of the APF Agreement.*

### Reporting on the Status of APFI

*The Department would like to clarify that beginning in 2005/2006; the Department prepared quarterly reports detailing the results and status of the activities and objectives of the APFI. Financial statements for 2003/2004 and 2004/2005 have now been prepared by external auditors and have been submitted to Agriculture and Agri-Food Canada. The Department acknowledges all other comments in this area and concerns regarding all projects providing annual reports will be assessed to determine the most effective methods of which to report.*

---





## Highlights

Highlights of a review of Recreation Grants in the Department of Tourism, Culture and Recreation for the period 1 April 2004 to 31 March 2005.

### Why our Office Did this Review

We undertook this review to determine whether the Department adequately and consistently evaluates grant applications, awards grants in accordance with program guidelines and monitors the effectiveness of the program.

### What our Office Recommends

Our Office recommends that the Department of Tourism, Culture and Recreation:

- document decisions relating to the approval and the rationale for grant allocations;
- develop objective guidelines for assessing grant applications;
- ensure grant applications are assessed in line with established guidelines; and
- establish measurable targets for the recreation grant programs and report on activities in relation to these targets.

### What the Department Said

To provide balance to this report and to ensure full disclosure, the Department was asked to formulate a response to our findings and conclusions. The Department's response, verbatim, is included at the end of this report. Readers are encouraged to consider the Department's comments in this regard.

◆ ◆ ◆ ◆ ◆

To view the full report, refer to the web site [www.gov.nl.ca/ag/reports.htm](http://www.gov.nl.ca/ag/reports.htm). For more information, contact Nina Goudie, Director of Information Resources, 709-729-2346 or [ninagoudie@gov.nl.ca](mailto:ninagoudie@gov.nl.ca).

Chapter 2, Part 2.15

### DEPARTMENT OF TOURISM, CULTURE AND RECREATION Recreation Grants

An objective of the Department of Tourism, Culture and Recreation is to encourage healthy lifestyles. To achieve this objective, the Department has developed several recreation grant programs to: (a) support voluntarism and community development; and (b) promote excellence and social development of young people through sport. These grants are available to organizations within the Province and are structured to support community-based organizations, and provincial and national sports groups. During the fiscal year 2005, the Department provided \$1.7 million in grants for recreation operations.

### What We Found

Applications for recreation grants in support of community-based organizations, and provincial and national sports groups are not being evaluated consistently. Furthermore, the Department does not monitor the effectiveness of the program.

#### (a) Inadequate evaluation of grant applications

The Department does not adequately and consistently evaluate grant applications.

- the Canada Games program does not have quantifiable evaluation criteria for the assessment of grant applications and allocation of money;
- the Provincial Sports Organizations and the Community Recreational Development programs have some quantifiable criteria; however, there is still significant use of discretion;
- other subsidies to three provincial associations: Sport Newfoundland and Labrador, Newfoundland and Labrador Parks and Recreation, and School Sports were awarded based on a request letter and discussions. There are no formal applications or assessment criteria.

The Newfoundland and Labrador Summer and Winter Games are also subsidized and are normally awarded based on detailed proposals. However, the 2006 Newfoundland and Labrador Winter Games were awarded to an applicant (Humber Valley region) that did not submit a proposal for these games.

As a result, inconsistent amounts were being awarded to the applicant.

#### (b) Grants awarded contrary to guidelines

The Department does not award grants in accordance with program guidelines. Specifically, our review identified:

- some groups were over awarded funding grants;
- when comparing groups for similar circumstances, grants were awarded inconsistently; and
- in evaluating grant applications, the Department altered the information provided by the applicants. We were unable to determine if this was the result of an error because reasons were not provided for making these changes.

#### (c) Programs not monitored

The Department does not monitor the effectiveness of the recreation grant programs. The Department has not established specific targets for program objectives and does not prepare an annual performance report on the activities and outcomes of the programs.

### Introduction

---

#### Overview

An objective of the Department of Tourism, Culture and Recreation is to encourage healthy lifestyles. To achieve this objective, the Department has developed several recreation grant programs to: (a) support voluntarism and community development; and (b) promote excellence and social development of young people through sport. These grants are available to organizations within the Province and are structured to support community-based organizations, and provincial and national sports groups.

During 2004-05, the Department provided \$1.7 million in grants for recreation operations. These grants are summarized in Figure 1.

**Figure 1**

**Department of Tourism, Culture and Recreation  
Recreation Operations Grants and Subsidies, 2004-05**

<b>Grant Program</b>	<b>2004-05</b>
Provincial Sport Organization	\$ 373,125
Community Recreational Development	184,822
Canada Games	250,000
Other Subsidies	905,959
<b>Total</b>	<b>\$ 1,713,906</b>

Source Province's financial management system

---

### Audit Objectives and Scope

---

#### Objectives

The objective of our review was to determine whether the Department:

- adequately and consistently evaluates grant applications;
  - awards grants in accordance with program guidelines; and
  - monitors the effectiveness of the program.
-

**Scope** Our Office completed a review in November 2005. Our review included discussions with Department staff and an examination of grant applications and supporting documentation for the following programs: Provincial Sport Organizations; Community Recreational Development; and, Canada Games. We also reviewed recreation operation subsidies.

---

## Conclusions

---

**Overview** Applications for recreation grants in support of community-based organizations, and provincial and national sports groups are not being evaluated consistently. Furthermore, the Department does not monitor the effectiveness of the program.

---

**Inadequate evaluation of grant applications**

The Department does not adequately and consistently evaluate grant applications. Specifically,

- the Canada Games program does not have quantifiable evaluation criteria for the assessment of grant applications and allocation of money;
- the Provincial Sports Organizations and the Community Recreational Development programs have some quantifiable criteria; however, there is still significant use of discretion;
- other subsidies to three provincial associations: Sport Newfoundland and Labrador, Newfoundland and Labrador Parks and Recreation, and School Sports are awarded based on a request letter and discussions. There are no formal applications or assessment criteria.

Newfoundland and Labrador Summer and Winter Games are also subsidized and are normally awarded based on detailed proposals. However, the 2006 Newfoundland and Labrador Winter Games were awarded to an applicant that did not submit a proposal for these games.

As a result, inconsistent amounts are being awarded to the applicant.

---

---

## Recreation Grants

---

### Grants awarded contrary to guidelines

The Department does not award grants in accordance with program guidelines. Specifically, our review identified:

- some groups were over awarded funding grants;
  - when comparing groups for similar circumstances, grants were awarded inconsistently; and
  - in evaluating grant applications, the Department altered the information provided by the applicants. We were unable to determine if this was the result of an error because reasons were not provided for making these changes.
- 

### Programs not monitored

The Department does not monitor the effectiveness of the recreation grant programs. The Department has not established specific targets for program objectives and does not prepare an annual performance report on the activities and outcomes of the programs.

---

## Findings and Recommendations

---

### Areas examined

This report provides our findings in the following five areas:

1. Provincial Sport Organizations Programs
  2. Community Recreational Development Program
  3. Canada Games Grants
  4. Other Subsidies
  5. Monitoring
- 

### 1. Provincial Sport Organizations Program

---

#### Overview

The purpose of the Provincial Sport Organizations Program is to provide financial assistance to recognized provincial sport organizations in the operation, administration and promotion of their sport in the Province.

This Program consists of two types of grants: operating and professional assistance. Figure 2 outlines the grants provided to provincial sport organizations during 2004-05.

**Figure 2**

**Provincial Sport Organizations Program  
Types of Grants, 2004-05**

Grant	Amount	Number of Grants
Operating Grant	\$241,125	37
Professional Assistance	132,000	12
<b>Total</b>	<b>\$373,125</b>	<b>49*</b>

Source: Departmental Reports

\*Note: The 49 applications represent 37 organizations.

**Application  
process**

Department officials indicated that provincial sport organizations submit a pre-printed grant application to the Department. A Departmental Recreation and Sport Consultant then assesses the application with the aid of an assessment guideline. The guideline helps assess the dollar value of grants, based upon a set of criteria for applications of this nature. The Divisional Director is required to review and approve the application and assessment prior to the grant being issued.

Figure 3 shows the assessment criteria and the associated range of funding available.

**Figure 3**

**Provincial Sport Organizations Program  
Assessment Criteria**

Assessment Criteria	Dollar Range	Maximum Allocation
Base amount	\$250	\$ 250
Membership (number of members)	\$100 - \$2,000	2,000
Recent growth of membership	\$0 - \$1,000	1,000
Coverage: # of communities/regions	\$200 - \$800	800
Training programs offered for coaches and officials	\$0 - 350	350
Performance (team/individual athlete)	\$0 - \$1,000	1,000
Demonstrated budgetary needs	\$0 - \$10,000	10,000
<b>Total</b>		<b>\$ 15,400</b>

Source: Annual Operating Grants Assessment Guidelines



Once approved, the Department distributes the grant to the applicant organization. The maximum annual grant an organization can receive is \$15,400.

In addition to the maximum operating grant amount, organizations that have full-time executive or technical directors on staff can also receive an additional \$11,000 as a professional assistance grant.

---

### Findings

Our review included an examination of applications for operating and professional assistance grants from 10 of the 37 provincial sport organizations. In reviewing these applications we identified issues which are outlined in the following sections:

- (a) allocation of discretionary amounts;
  - (b) allocation of funds based on the assessment criteria;
  - (c) information used in the assessment;
  - (d) allocation of professional assistance grants; and,
  - (e) assessment review process by the Department.
- 

### Inconsistent allocation of discretionary amounts

#### (a) Allocation of discretionary amounts

The assessment criteria, except the base amount of \$250, have a range of funds that can be awarded. For six of the eight criteria, there are specific guidelines to guide grant allocations; however, there are two areas (membership growth and budgetary requirements) where the Recreation and Sport Consultant has discretion as to how much grant is awarded. The Department's discretionary power in the assessment process resulted in inconsistent treatment of organizations in the grant application process.

For example, the *growth* criterion of an organization is a discretionary area in the grant assessment for Provincial sport organizations. The Department does not provide specific guidelines as to what kind or amount of *growth* would qualify an organization for this allocation of the grant.

Our review of 10 organizations that received operational grants in 2004-05 indicated inconsistencies in 3 cases with how amounts were awarded under the *membership growth* criteria. For example, organizations qualified for additional funds if they demonstrated that membership had increased. Our audit indicated that two organizations which demonstrated positive growth in membership were not awarded funds under this category. In comparison, one organization showing relatively small amount of membership growth was awarded the maximum amount of \$1,000. In this case, there was nothing on file to support the amount awarded. Figure 4 outlines the discrepancies.

**Figure 4**

**Provincial Sport Organizations Program  
Discrepancies in Grant Awards under the *Growth* Criteria**

Organization	Membership			Amount Awarded
	2003	2004	Increase	
Hockey	8,861	8,883	22	\$1,000
Cross-Country Skiing	2,600	2,700	100	0
Rowing	228	244	16	0

Source: Departmental membership report and assessment guidelines

**Inconsistent allocation for criteria**

**(b) Allocation of funds based on the assessment criteria**

The Assessment Guideline assigns amounts to organizations according to various criteria including the:

- number of registered members;
- number of regions with registered organizations;
- the amount of training provided to coaches and officials; and
- membership performance at competitions (i.e. individual athlete).

These amounts are awarded based on objective criteria as set out by the Department. Our review of 10 organizations that received operational grants indicated that these objective criteria were circumvented in 6 instances, resulting in a different grant being awarded than was calculated using the assessment criteria. The reasons for these differences were not documented in the applicant's file. Figure 5 outlines the six instances.

**Figure 5**

**Provincial Sports Organizations Program  
Grant Award Versus Grant Calculated**

<b>Organization</b>	<b>Total Grant Assessed</b>	<b>Amount Awarded</b>	<b>Over (Under) Award</b>
Cross-Country skiing	\$10,000	\$14,000	\$4,000
Basketball	13,300	13,400	100
Rugby	5,550	8,550	3,000
Softball	5,600	7,000	1,400
Synchronized swimming	4,650	4,500	(150)
Ball Hockey	3,500	3,750	250
<b>Total</b>	<b>\$42,600</b>	<b>\$51,200</b>	<b>\$8,600</b>

Source: Annual Operating Grants Assessment Guidelines forms

**Inaccurate information used in assessment**

**(c) Information used in the assessment**

Information provided by an organization was not always recorded accurately on the assessment guideline forms. As a result, inaccurate grants were awarded to some organizations. Examples are outlined in Figure 6.

**Figure 6**

**Provincial Sport Organizations Program  
Over (Under) Awards of Grants**

Assessment Criteria and Organization	Information per Application	Information per Assessment	Over (Under) Award
<b>Base Amount</b>			
Softball	\$250	\$200	\$(50)
<b>Number of Regions</b>			
Softball	7 regions	5 regions	\$(200)
Rowing	5 regions	3 regions	\$(200)
Sailing	3 regions	2 regions	\$(100)
Ball Hockey	6 regions	7 regions	\$100
<b>Training for Coaches and Officials</b>			
Rowing	1 course, 1 clinic	3-4 courses, 3-4 clinics	\$150
Sailing	1 course, 4 clinics	0 course, 4 clinics	\$(75)
Cross-country skiing	2 courses, 4 clinics	3-4 courses, 3-4 clinics	\$100
Synchronized swimming	4 courses, 2 clinics	3-4 courses, 3-4 clinics	\$50
<b>Athlete Performance</b>			
Softball	Atlantic - two 3 <sup>rd</sup> places	Atlantic - 1 <sup>st</sup> or 2 <sup>nd</sup> place	\$300
<b>Net Difference</b>			<b>\$75</b>

Source: Annual Operating Grants Assessment Guidelines forms

As the Figure shows, Departmental staff, in their assessment, changed the information contained in the applications which resulted in a different grant amount being awarded. However, the reasons for the changes were not documented on the assessments and/or in the application files.

### **Inconsistent disbursement of Professional Assistance grants**

#### **(d) Allocation of professional assistance grants**

Professional assistance grants are available to organizations that hire full-time technical or executive administrators. To qualify for funding, the position must be for 30 hours or more per week for a minimum of nine months per year.

Our review of 10 applications identified one instance where the Department approved a reduced Professional Assistance amount of \$2,500 for cross-country skiing, but added it to the same organization's operating grant. However, the organization's application for the Professional Assistance grant did not meet the full-time staff requirements, and as such should not have been approved.

---

### **No review of assessments**

#### **(e) Assessment review process by the Department**

A formal periodic review of assessments and applications by the Department is essential to ensure that grant amounts are awarded in a consistent manner and according to the assessments undertaken. Staff indicated that applications and assessments are reviewed by the Departmental Director. However, the assessment forms we examined did not indicate that the Director had reviewed them.

---

## **2. Community Recreational Development Program**

---

### **Overview**

The purpose of the Community Recreational Development Program is to offset the cost of providing recreation and sport/active living programs and leisure services in communities with populations of less than 6,000 people.

During 2004-05, the Province spent \$184,822 on Community Recreational Development grants which were distributed among 219 communities.

---

### **Application process**

Department officials indicated that communities submit a pre-printed grant application to the Department. A Departmental Recreation and Sport Consultant then assesses the application with the aid of a point allocation guide that assigns points according to various criteria. The guide helps assess the dollar value of grants, based upon a set of criteria for applications of this nature. Points are awarded for such things as the number of sports (2 points per sport to a maximum of 20 points) and full-time recreation employee (30 points). The total number of points that a community accumulates is multiplied by \$22, which determines the grant amount. The maximum annual grant a community can receive is \$1,870.

The Divisional Director is required to review and approve the application and assessment prior to the grant being issued.

---

### **Findings**

Our review included an examination of applications from 10 of the 219 communities applying for Community Recreational Development grants. In reviewing these applications we identified issues which are outlined in the following sections:

- (a) allocation of discretionary amounts;
  - (b) review of point allocation; and
  - (c) allocation of points.
- 

### **Discretionary point allocation guide**

#### **(a) Allocation of discretionary amounts**

The Department developed a Point Allocation Guide to assist in the determination of the grant that a community should receive. The Point Allocation Guide takes the following criteria of the community's recreational development into consideration when assessing the grant to be awarded.

- Sports programs present in the community (maximum 20 points)
- Special events / active living initiatives (maximum 15 points)
- Full / part time leadership (maximum 30 points)
- Other activities (maximum 5 points)
- Discretionary (maximum 15 points)

These criteria have a maximum 85 points at \$22 per point for a maximum grant of \$1,870.

---

### **Inconsistent treatment**

Although most of the areas have a specific limit to the amount of points that can be awarded, there are also discretionary points that can be awarded by the Recreation and Sport Consultant assessing the application. A total of 15 of the 85 available points (17.6%) are discretionary. The use of discretion in the assessment of grants results in the inconsistent treatment of communities in the assessment process.

---

### **No review of point allocation**

#### **(b) Review of point allocation**

Each Recreation and Sport Consultant is responsible for assessing the applications independently. This process results in the inconsistent awarding of points which leads to the inconsistent awarding of grants. Although grants are compiled and tracked by the Recreation Division, there is no periodic review by the Divisional Director of the actual points and therefore, the money awarded to each community.

---

### **Inconsistent allocation of points**

#### **(c) Allocation of points**

Our review of 10 applications identified the following:

- There were three different activities which were allocated points inconsistently. These activities were skating, darts and first aid. Some communities were awarded more points, and therefore, more money for these activities than other communities.
- Five applications were awarded more points than permitted according to the guidelines. Therefore, more grant money was disbursed than allowed by Point Allocation guidelines. Figure 7 outlines the over-awards.

**Figure 7**

**Community Regional Development Program  
Comparison: Grants Assessed versus Awarded**

Community	Assessed		Awarded		Over awarded	
	Points	Amount	Points	Amount	Points	Amount
Botwood	59	\$1,298	85	\$1,870	26	\$ 572
Deer Lake	75	1,650	85	1,870	10	220
Point Leamington	39	858	55	1,210	16	352
Makkovic	77	1,694	83	1,826	6	132
Wabush	79	1,738	80	1,760	1	22
<b>Totals</b>		<b>\$7,238</b>		<b>\$8,536</b>		<b>\$1,298</b>

Source: Departmental information and grant applications

**3. Canada Games Grants**

**Overview**

The purpose of the Canada Games Grants Program is to provide financial assistance to Canada Games sports which incur costs associated with a provincial team's program, training, team selections and camps.

During 2004-05, the Province provided \$250,000 in Canada Games grants which were distributed amongst 37 teams. The Canada Games grant per team member ranged from \$333 to \$1,250.

**Application process**

Department officials indicated that groups representing the Canada Games' teams submit a pre-printed grant application to the Department. A Departmental Recreation and Sport Consultant then assesses the application using such factors as:

- the cycle year of the games to which the sport relates;
- training to be undertaken;
- the location(s) of competition(s); and,
- the size of the teams.



---

## Recreation Grants

---

The Divisional Director is required to review and approve the application and assessment prior to the grant being issued.

Once approved, the Department distributes the grant to the team. The maximum grant a Canada Games' team can receive is \$55,000 over a 4 year period. The amount is disbursed as follows: Year 1 - \$10,000; Year 2 - \$10,000; Year 3 - \$15,000 and Year 4 - \$20,000.

---

### Finding

In reviewing these applications we identified that although there were evaluation criteria for the program, these criteria were not quantified to provide guidance to the Recreation and Sport Consultant for assessment purposes. Instead, grant applications are assessed based on the expertise of Departmental staff in the area and non-specific, non-numerical criteria. As a result, amounts awarded would be inconsistent.

### Criteria not quantified

For example, one of the criteria states that grants are weighted based on team size, with larger teams receiving higher amounts. Our review of grants received by teams participating in the 2006 Summer Canada Games indicated that this was not always the case. The team with the fewest members (Diving) did not receive the smallest grant, and the team with the most members (Athletics) did not receive the largest grant.

Although team size is only one criterion for assessing the amount of grant to be given to a team, without specific quantified criteria, discrepancies among team grants will occur.

---

## 4. Other Subsidies

---

### Overview

About 52% of the recreation operation grants (\$905,959) were categorized as *Other Subsidies*. Disbursements were comprised of direct budget allocations for the following five organizations and the 2006 Winter Games which received about 64% of the \$905,959: Sport Newfoundland and Labrador, Newfoundland and Labrador Parks and Recreation, School Sports, Inter-provincial Sport and Recreation, and Canada Sports Centre Atlantic. These allocations were disbursed periodically throughout the year. The remaining 36% was disbursed for transportation charters related to the 2004 Summer Games (such as to a travel agency: \$121,182; and a bus company: \$52,576) and for other projects. Figure 8 provides a listing of the significant grants provided.

**Figure 8**  
**Other Subsidies**  
**2004-05**

Organization	# of Grants Provided	Amount	Percent
Sport Newfoundland and Labrador	8	\$142,058	16
NL Parks and Recreation Association	6	137,000	15
School Sport NL	3	125,000	14
Inter-provincial Sport and Recreation	2	52,576	6
Canada Sport Centre Atlantic	3	24,259	2
2006 NL Winter Games-Humber Valley	1	100,000	11
2004 NL Summer Games-Legrows Travel/DRL Coachlines	2	160,647	18
Other	Various	164,419	18
<b>Total</b>		<b>\$905,959</b>	<b>100</b>

Source: Province's financial management system

**Application and approval process**

Department staff indicated that specific requests for funding are made annually by various agencies. Grant requests are made by letters, e-mails or presentations to the Minister and in the case of the Newfoundland and Labrador Games, bid proposals are required. Requests for each are assessed at the Division level. The Minister approves grants to organizations, while a Ministerial Committee makes a recommendation to Cabinet for the approval of the host community for the Newfoundland and Labrador Winter and Summer Games. Our review of 5 organizations' and the 2006 Winter Games grant applications identified the following:

- There are no formal applications or assessment criteria for requesting and awarding grants to provincial associations such as Sport Newfoundland and Labrador, Newfoundland and Labrador Parks and Recreation and School Sports.
- 5 grants totalling \$58,901 made to 2 organizations (Sport Newfoundland and Labrador - \$34,642 and Canada Sport Centre Atlantic - \$24,259) did not have a request for funding letter on file.

- In 2 instances applicants requested \$95,000 and \$3,500 but were awarded \$99,500 and \$5,000 respectively (Newfoundland and Labrador Parks and Recreation - \$99,500 and Sport Newfoundland and Labrador - \$5,000) without an explanation on file for the increased award.
- 6 grants totalling \$61,701 to 2 organizations (Sport Newfoundland and Labrador - \$37,442 and Canada Sport Centre Atlantic - \$24,259) did not have the approval letter from the Minister on file. In addition, one organization (Newfoundland and Labrador Parks and Recreation) received a grant of \$3,000 which was only supported by an unsigned letter from the Minister.
- Neither of the 2 communities (Corner Brook and Channel Port Aux Basques) which provided bid proposals for the 2006 Newfoundland and Labrador Winter Games met the guidelines established for the Host events. The Department decided that the communities which provided bids on the 2004 Summer Games would be considered for the Winter Games; however, the Department used the communities' 2004 bid proposals and did not require a separate bid proposal for the 2006 Winter Games from these communities. As a result, the 2006 Newfoundland and Labrador Winter Games were awarded to an applicant (Humber Valley region) that did not submit a proposal for these games.
- For the Newfoundland and Labrador Winter and Summer Games, although Division staff prepared an analysis and assessment of the bid proposals received from communities, they did not rank or provide recommendations to the Ministerial Committee for consideration.

---

## 5. Monitoring

---

### Monitoring of Grant Program

Although the Division has monitoring policies and procedures for grants provided to the various provincial sport organizations, communities and other organizations, it does not adequately monitor and report on the activities of the Grant Program. Our review identified the following:

- The Department has not established specific targets for its program objectives. The establishment of targets is essential in measuring the success of each objective. For example, specific targets may be number of volunteers, team achievements, number of athletes, or recreation infrastructure maintained.

---

## Recreation Grants

---

- Neither the Division nor the Department prepares an annual performance report on the activities and outcomes of the Recreation Grant Program.

Without established targets or the reporting of actual results against these targets, the Department cannot determine if the program is advancing its goals to support voluntarism and community development, and promote excellence and social development of young people through sport.

---

## Recommendations

---

*The Department should:*

- *document decisions relating to the approval and the rationale for grant allocations;*
  - *develop objective guidelines for assessing grant applications;*
  - *ensure grant applications are assessed in line with established guidelines; and*
  - *establish measurable targets for the recreation grant programs and report on activities in relation to these targets*
- 

## Department's Response

---

*The Department will work towards amending the existing guidelines so as to enhance the level of objectivity for the assessment and approval of grant applications. Past practice has been that the Department's recreation and sport consultants could exercise some degree of flexibility in order to accommodate the unique and diverse needs of the geographic regions of the province, as well as the specific needs of provincial sport organizations. The criteria used by Departmental staff to address unique needs will be formalized into more objective and quantifiable criteria.*

## Recreation Grants

---

*The Department will take appropriate action to ensure administrative matters such as appropriate documentation, verbal discussions reflected in file notes, and the proper documentation of assessments, approvals and decisions will be strictly adhered to in the future.*

*The Department is in the process of completing a Recreation and Sport Strategy for Newfoundland and Labrador. As part of this Strategy, the Department will be conducting a review of existing programs, their goals and objectives, program structure and delivery mechanisms, as well as the evaluation and monitoring tools so that programs and services may be properly assessed for impact.*

---

---

## Recreation Grants

---



# Highlights

Highlights of a review of Provincial roads maintenance and construction covering the period 1 April 2001 to 31 March 2006.

## Why our Office Did this Review

We undertook this review to update our findings from our 1996 review and to assess: (i) whether the Department does an adequate job in assessing and monitoring the physical condition of Provincial roads; (ii) the Highway Maintenance Management System (HMMS); (iii) the level of capital and maintenance funding and the impact of road maintenance on extending the maximum useful life of Provincial roads; and (iv) the process for determining future capital and maintenance requirements.

## What our Office Recommends

Our Office recommends that the Department of Transportation and Works should:

- establish a formal program for regularly assessing road conditions on a systematic and objective basis;
- ensure that standards in its Highway Maintenance Management System (HMMS) used to estimate the cost of maintenance activities are reviewed and updated on a regular basis;
- ensure activity reports are generated from the HMMS on an annual basis as required and used by regional officials to compare standard to actual activity;
- develop a long-term capital plan to address the timing of capital funding and the priority of the work; and
- use a Province-wide risk assessment or priority basis for work to be performed when capital funding is provided.

## What the Department Said

To provide balance to this report and to ensure full disclosure, the Department was asked to formulate a response to our findings and conclusions. The Department's response, verbatim, is included at the end of this report. Readers are encouraged to consider the Department's comments in this regard.

◆ ◆ ◆ ◆

To view the full report, refer to the web site [www.gov.nl.ca/ag/reports.htm](http://www.gov.nl.ca/ag/reports.htm). For more information, contact Nina Goudie, Director of Information Resources, 709-729-2346 or [ninagoudie@gov.nl.ca](mailto:ninagoudie@gov.nl.ca).

Chapter 2, Part 2.16

## DEPARTMENT OF TRANSPORTATION AND WORKS Provincial Roads Maintenance and Construction

The Department of Transportation and Works is responsible for the construction and maintenance of the Province's road system. The road system consists of approximately 9,000 kilometers of roadway comprised of 7,000 kilometers of paved road and 2,000 kilometers of gravel road. Funding for maintenance of the Province's roads, excluding snow and ice removal, has remained relatively constant from 2001 to 2006 at an average of \$20.8 million annually. Construction costs over the same period averaged \$58.8 million and ranged from a high of \$80.4 million in 2002 to a low of \$36 million in 2005.

## What We Found

In 1996, we concluded that the Department was not adequately managing the Province's road system. A decade later in 2006, we have come to the same conclusion.

### (a) No formal program to assess physical condition of Provincial road system

There are a number of scientific approaches available to assess the extent of wear of the roads such as road roughness, cracking, and rutting. However, the Department does not have a formal program in place for assessing the physical condition of the Province's road system.

### (b) No preventative or preservation maintenance

The Department does not focus its road maintenance expenditures on preventative or preservation analysis or maintenance activities.

### (c) The highway maintenance management system is not up to date

The Department's Highway Maintenance Management System (HMMS) was introduced in 1995. Although the system establishes Departmental unit and cost standards for each type of maintenance activity, the standards need to be updated and the system is not being used to effectively plan and monitor maintenance expenditures.

### (d) Funding and expenditures inadequate to complete road construction projects

The amount of capital funding approved in the annual budget was significantly less than the amount identified and requested by the Department to fund construction projects. Furthermore, the actual amounts spent were significantly less than the amount contained in the annual budget.

The Department has estimated that \$287.9 million is required to bring the Province's road system up to at least a "good condition" rating.

### (e) Impact of expenditures on the Province's roads

Annual maintenance costs incurred over the last 6 years has remained relatively constant at approximately \$20.8 million. In addition, actual expenditures on road construction activities decreased significantly from 2001 to 2005.

Given the increasing age of the Province's roads and the lack of additional funding for road maintenance, the condition of the Province's roads will deteriorate at an accelerated rate which will negatively impact their maximum useful life.

### (f) Impact of reduction in Federal funding

Federal cost-shared funding for road construction has decreased significantly over the last six years from \$52.3 million for 2001 to \$0.2 million for 2006. This has had a significant impact on the level of expenditure for road construction.

### (g) No Province-wide risk assessment / No long-term plan in place

There is no Province-wide risk assessment or priority basis for what work is performed using the capital funding provided. There is no long-term plan currently in place to address the timing of capital funding and the priority of the work.

### Introduction

---

#### Background

The Department of Transportation and Works (The Department) is responsible for the construction and maintenance of the Province's road system. A major strategic priority identified by the Department is the appropriate stewardship of public infrastructure, including roads. The overall goal of this priority is undertaking preventative maintenance and repair/support activities directed towards achieving the maximum useful life of this infrastructure.

The Province's road system consists of approximately 9,000 kilometers of roadway comprised of 7,000 kilometers of paved road and 2,000 kilometers of gravel road. Road construction and maintenance responsibilities are divided among the Department's divisions as follows:

<b>Division</b>	<b>Responsibilities</b>
Highway Design and Construction	<ul style="list-style-type: none"><li>- Designing transportation infrastructure including highways;</li><li>- Managing and inspecting construction and rehabilitation projects;</li><li>- Quality assurance of construction materials; and</li><li>- Investigating soil conditions for bridges and highways.</li></ul>
Regional Offices <ul style="list-style-type: none"><li>- Avalon</li><li>- Eastern</li><li>- Central</li><li>- Western</li><li>- Labrador</li></ul>	<ul style="list-style-type: none"><li>- Program delivery for highway construction, rehabilitation and maintenance; and</li><li>- Equipment maintenance for Government fleet.</li></ul>
Highway Maintenance Support	<ul style="list-style-type: none"><li>- Developing and implementing policies and procedures for maintenance of highways;</li><li>- Maintaining data on maintenance and equipment costs, and storing Department records; and</li><li>- Administering inventory management system and inventory control.</li></ul>



---

## Provincial Roads Maintenance and Construction

---

### Maintenance and construction costs

Funding for maintenance of the Province's roads, excluding snow and ice removal, has remained relatively constant from 2001 to 2006 at an average of \$20.8 million annually. Construction costs over the same period averaged \$58.8 million and ranged from a high of \$80.4 million in 2002 to a low of \$36 million in 2005.

---

### Previous reporting

In our 1996 report to the House of Assembly, we provided details of our review of the Provincial Road system. Our objective was to assess the adequacy of systems and processes used in the selection and management of road construction and maintenance. Our conclusion was that the assessment and project management systems were not adequate. For example, there was no formal program for assessing the physical condition of the roads and there was no formal long-term plan for the development of the Provincial road system.

---

## Audit Objectives and Scope

---

### Objectives

The objective of the review was to update our findings from our 1996 review and to assess:

- whether the Department does an adequate job in assessing and monitoring the physical condition of Provincial roads;
- the Highway Maintenance Management System (HMMS);
- the level of capital and maintenance funding and the impact of road maintenance on extending the maximum useful life of Provincial roads; and
- the process for determining future capital and maintenance requirements.

### Scope

We completed our review in October 2006. The review covered the period from 1 April 2001 to 31 March 2006 and included discussions with staff and a review of files and other documentation at the Department of Transportation and Works in St. John's and at the five regional offices.

---

### Conclusions

---

In 1996, we concluded that the Department of Transportation and Works was not adequately managing the Province's road system. A decade later in 2006, we have come to the same conclusion.

While Provincial roads continue to deteriorate, maintenance expenditures over the last six years have remained relatively constant and, from 2001 to 2005, construction expenditures decreased significantly. Furthermore, there is no formal program for assessing the physical condition of the roads, no Province-wide risk based approach to identify and prioritize required maintenance and construction activities, and no long-term plan in place to guide how funding will be used. Our conclusions are summarized as follows:

---

#### (1) Physical Condition of the Provincial Road System

**No formal program to assess physical condition of Provincial road system**

There are a number of scientific approaches available to assess the extent of wear of the roads such as road roughness, cracking, and rutting. However, the Department does not have a formal program in place for assessing the physical condition of the Province's road system. For example,

- Only visual inspections are carried out by maintenance and engineering personnel.
  - The results of visual inspections are not always documented.
  - There are no specific inspection guidelines (e.g. standard inspection forms and inspection frequency) provided to staff.
  - Departmental officials assign basic safety and condition ratings to roads (e.g. very poor, fair, good, etc.); however, these ratings are subjective and may result in inconsistencies.
-

**No preventative or preservation maintenance**

The Department does not focus its road maintenance expenditures on preventative or preservation analysis or maintenance activities. Regional officials indicated that their approach regarding road maintenance is reactive more than proactive and thus not based on a formal plan.

---

### **(2) Highway Maintenance Management System (HMMS)**

**Department's highway maintenance management system is not up to date**

The Department's Highway Maintenance Management System (HMMS) was introduced in 1995. Although the system establishes Departmental unit and cost standards (labour hours, materials, and equipment) for each type of maintenance activity, the system is not being used to effectively plan and monitor maintenance expenditures. For example:

- At the time of our review, the standards in the Highway Maintenance Management Manual for 36 of the 40 activities related to road maintenance, and other structures such as bridges and airstrips, were unchanged since implementation of the Manual in 1995. We were informed by officials that their review in 2005 indicated that changes were required to some of the standards; however, these changes had not been implemented at the time of our review in October 2006.
  - Although activity reports from the HMMS are to be prepared by head office on an annual basis, the most recent activity report available for our review was one for the 2003 fiscal year. Furthermore, four of the five regions indicated that when activity reports were received, they were not used by regional offices to compare standard to actual activity.
- 

### **(3) Capital and Maintenance Funding**

**Funding and expenditures inadequate to complete road construction projects**

The amount of capital funding approved in the annual budget is significantly less than the amount identified and requested by the Department to fund construction projects. Furthermore, the actual amounts spent are significantly less than the amount contained in the annual budget. This means that while the Department requested more funding than it actually received, it did not spend what it ultimately did receive. Department officials indicated that this was due to project carryovers caused primarily by late tender calls and delays in approvals of Federal funding.

---

**Impact of maintenance expenditures on the Province's roads**

Annual maintenance costs (excluding snow and ice control) incurred over the last 6 years has on average remained relatively constant at approximately \$20.8 million. Given the increasing age of the Province's roads and the lack of additional funding for road maintenance, the condition of the Province's roads will deteriorate at an accelerated rate which will negatively impact their maximum useful life. This will lead to funding being required for construction and replacement costs at an earlier date.

---

**Impact of reduced expenditures on Province's roads**

Actual expenditures incurred by the Department on road construction activities decreased significantly from 2001 to 2005. The Province's road construction expenditures decreased by 55% between 2002 and 2005 from a high of \$80.4 million in 2002 to a low of \$36.0 million in 2005. We note that actual expenditures increased in 2006 to \$58.0 million.

---

**Impact of reduction in Federal funding**

Federal cost-shared funding for road construction has decreased significantly over the last six years from \$52.3 million for 2001 to \$0.2 million for 2006. This decrease in Federal funding is attributed to the expiration of Federal/Provincial cost-shared agreements, e.g. the Roads for Rails agreement. This has had a significant impact on the level of expenditure for road construction. Department officials did note that the budget for Federal funding increased in 2007 to \$12.5 million.

---

**No Province-wide risk assessment and no planned preventative and preservation program**

#### **(4) Future Maintenance and Capital Requirements**

There is no Province-wide risk assessment or priority basis for what work is performed using the capital funding provided. Furthermore, there is no planned preventative and preservation program followed. A regional official indicated that their approach regarding road maintenance expenditures is not based on a formal plan but rather that “...*we are in a reactive approach more so than a proactive approach regarding road maintenance expenditures.*” Similar concerns were expressed by other regional officials.

---

### **No long-term plan in place**

There is no long-term plan currently in place to address the timing of capital funding and the priority of the work. The regional directors informed us that the allocation of capital funding among the regions is for the most part based on road kilometers within each region.

Of the estimated \$414.7 million in capital requirements to address road safety conditions, \$87.7 million is needed just to satisfy safety issues ranked essential, very high and high. In terms of road condition, of the \$414.7 million (79% for paving and 21% for grading), \$287.9 million is required to bring the Province's road system up to at least a good condition (i.e. to significantly extend useful life of the roads).

---

## **Findings and Recommendations**

---

In October 2006 we completed a review of Provincial roads maintenance and construction covering the period 1 April 2001 to 31 March 2006.

Our findings are provided in relation to the:

1. physical condition of the Provincial road system;
  2. maintenance
  3. capital funding and expenditures; and
  4. future maintenance and capital requirements.
- 

### **1. Physical Condition of Provincial Road System**

---

#### **No formal inspection program in place**

The Department does not have a formal inspection program in place for assessing the physical condition of the Province's road system. The Department's Highway Maintenance Management Manual is focused on maintenance operations, not inspections. It does not include inspection planning or frequency, standard inspection forms, assessment techniques to determine the physical condition of road systems or related guidelines.

As a result, the informal process in use is subjective in that the assessment does not include any of the scientific approaches currently available for determining the extent of wear such as road roughness, cracking, and rutting.

Currently, any inspections that are carried out by maintenance and engineering personnel are informal and only visual in nature. Directors at 4 of the Department's 5 regional offices agreed that the safety and physical condition of roads is determined through visually inspecting traffic volumes, bus routes, condition of pipes and structures.

Furthermore, when maintenance and engineering personnel conduct informal inspections, they are not always documented. There is no inspection form to document the extent of road inspections and the types of deficiencies found. Department personnel indicated that 'serious deficiencies' are noted and are included in the capital requirements estimates for Provincial roads. This information is submitted by the regions to the Department as part of the annual budget process to assist the Department in determining its capital needs for the upcoming year. However, there is no guidance as to what constitutes a 'serious deficiency' and as such is open for subjective interpretation.

---

**Modern performance measures not used**

There are a number of performance measures that, while not currently being used by the Department, can be used in assessing the physical condition of the road system. For example, one method is the pavement condition index (PCI) which consists of two components: the international roughness indicator (IRI), which measures pavement smoothness; and the distress manifestation index (DMI), which measures such things as the level of roughness, cracking and rutting.

---

**No formal standards or benchmarks to rate safety**

One regional Director stated that there is no specific standard to rate safety and overall condition of the road system. He indicated that front-line supervisors are generally reacting to current conditions. All regional offices agreed that there is no formal process in place to establish benchmarks that can be compared with results obtained from visual road inspections to determine safety and condition ratings. Instead, Departmental officials assign basic safety and condition ratings to roads (e.g. very poor, fair, or good); however, these ratings are very subjective and may result in inconsistencies.

---

### No planned preventative and preservation maintenance approach

The Department does not have a planned preventative or preservation maintenance approach to maintenance expenditures.

- Preventative maintenance of a road system is used to slow the deterioration of the surface layer. An example would be filling in cracks.
- Preservation maintenance extends the life and the surface quality of a paved road system. An example would be milling off and replacing the surface layer of pavement.

Regional officials indicated that the Department's approach regarding road maintenance expenditures is reactive rather than proactive.

---

## 2. Maintenance

---

### Background

The Department developed a Highway Maintenance Management Manual in 1995 which sets out Departmental policies and procedures for routine highway maintenance. This Manual applies to day-to-day operations in performing maintenance and does not include guidance for formal inspections and road condition assessment techniques.

The Manual contains guidelines for performing routine highway maintenance as well as reporting on maintenance activities. A computerized Highway Maintenance Management System (HMMS) was also introduced at the same time as the Manual. The HMMS is a planning tool for the Department that is used to calculate materials required and person hours available for road maintenance. The database helps track Departmental unit and cost standards (labour hours, materials, and equipment) for maintenance completed on roads as well as other structures such as bridges and airstrips.

---

Although the HMMS establishes Departmental unit and cost standards, the system is not being used to effectively plan and monitor maintenance expenditures. For example:

**Standards unchanged since inception**

- At the time of our review, standards for only 4 of the 40 maintenance-related activities contained within the HMMS had been updated since October 2001. The remaining 36 had not changed since implementation of the manual in April 1995. Our review of an activity report for the 2003 fiscal year indicated that actual costs were significantly different from average standardized costs which were originally established in 1995, confirming the need to review and update the standards with current rates.

Although Department officials informed us that the standards were reviewed in 2000, 2003 and 2005, there is no formal documentation to support the reviews or their outcomes. We were informed by officials that their review in 2005 indicated that changes were required to some of the standards; however, these changes had not been implemented at the time of our review in October 2006.

**Activity reports are not prepared on an annual basis**

- Although activity reports from the HMMS are to be prepared by the Department on an annual basis and distributed to regional offices, the most recent activity report provided to us was for the 2003 fiscal year. That report summarized all activities for all units within all sub-divisions of the 5 regions of the Province. The actual labour, material and equipment costs were compared to the average standard labour, material and equipment cost within each sub-division of the activity being reported.

Four of the five regions indicated that when activity reports were received, they were not used by regional offices to compare standard to actual activity. If the activity reports are not generated on a regular basis and not reviewed when they are generated, the usefulness of the reports in assessing maintenance activities is questionable.

---



### 3. Capital Funding and Expenditures

Road construction involves those activities that increase the capacity of the road system, including additions or improvements to existing infrastructure, and the construction of new roads. Maintenance involves those activities that preserve the existing investment in the road system.

Figure 1 provides details on road construction and road maintenance expenditures from 2001 to 2006.

**Figure 1**

**Department of Transportation and Works  
Expenditures on Road Construction and Road Maintenance  
Fiscal Years 2001 to 2006  
(\$ Millions)**

Year	Road Construction*	Road Maintenance	Total Construction and Maintenance
2001	79.4	19.2	98.6
2002	80.4	20.9	101.3
2003	55.1	21.0	76.1
2004	43.8	21.8	65.6
2005	36.0	20.6	56.6
2006	58.0	21.3	79.3
<b>Total</b>	<b>352.7</b>	<b>124.8</b>	<b>477.5</b>
<b>Average</b>	<b>58.8</b>	<b>20.8</b>	<b>79.6</b>

\*Excludes amounts for Trans Labrador Highway

Source: Public Accounts (2001 through 2005)

Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund (2006)

#### Reduction in expenditures on Province's roads

As Figure 1 shows, actual expenditures incurred by the Department on road construction activities decreased significantly from 2001 to 2005. The Province's road construction expenditures decreased by 55% from a high of \$80.4 million in 2002 to a low of \$36.0 million in 2005. We note that actual expenditures increased in 2006 to \$58.0 million.

## Provincial Roads Maintenance and Construction

Funding for maintenance of the Province's roads, excluding snow and ice removal, has remained relatively constant between 2001 and 2006 at an average of \$20.8 million annually. Given the increasing age of the Province's roads and the lack of additional funding for road maintenance, the condition of the Province's roads will deteriorate at an accelerated rate which will negatively impact their maximum useful life. This will lead to funding being required for construction and replacement costs at an earlier date.

The annual capital funding budget is currently determined from updates provided by the five regions. The need identified by the regions for funding always exceeds the amount provided and as a result, capital projects are not always undertaken. This also contributes to the deterioration of the Provincial roads system.

Figure 2 shows the capital funding requested and approved as well as actual costs from 2001 to 2006.

**Figure 2**

**Department of Transportation and Works  
Funding Amounts Requested and Approved Versus Actual Costs\*  
Fiscal Years 2001 to 2006  
(\$ Millions)**

Year	Amount Requested by Department	Funding Approved by Treasury Board	Actual Costs
2001	97.0	78.1	79.4
2002	86.8	81.9	80.4
2003	74.7	64.5	55.1
2004	48.1	51.2	43.8
2005	75.1	48.2	36.0
2006	91.6	68.5	58.0
<b>Totals</b>	<b>473.3</b>	<b>392.4</b>	<b>352.7</b>
<b>Averages</b>	<b>78.9</b>	<b>65.4</b>	<b>58.8</b>

\* Excludes amounts for Trans Labrador Highway

Source: Departmental information (amount requested)

Public Accounts 2001 through 2005 (funding approved and actual costs)

Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund (funding approved and actual costs 2006)

## Provincial Roads Maintenance and Construction

### Funding inadequate to complete identified road construction projects

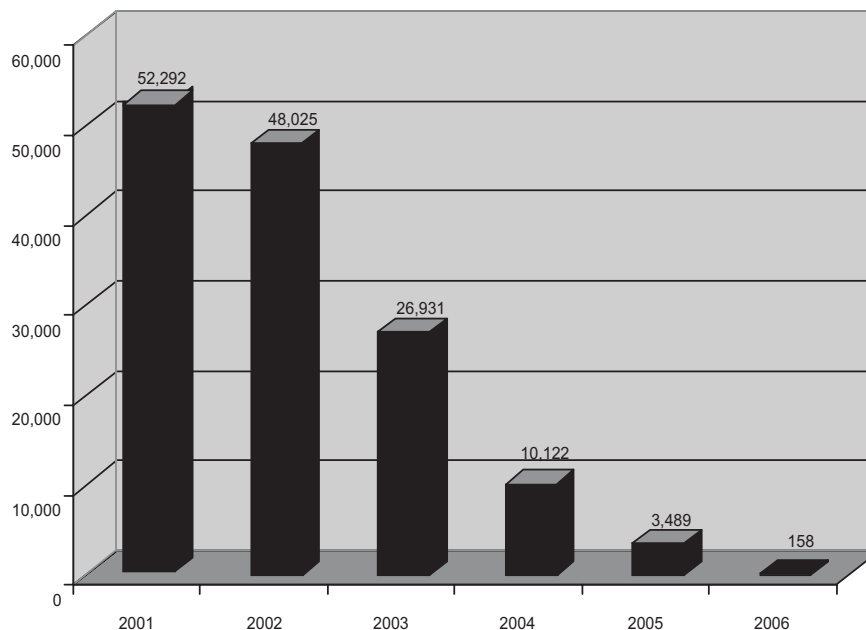
As Figure 2 shows, the total capital funding requested by the Department for the six fiscal years from 2001 to 2006 was \$473.3 million (average \$78.9 million), with the funding approved in the Province's budget process totalling \$392.4 million (average \$65.4 million). Thus, the funding for construction projects exceeds the amount approved in the budget. Even though funding approved was significantly less than the requested amount, the Department only spent \$352.7 million. Department officials indicated that this was due to project carryovers caused primarily by late tender calls and delays in approvals of Federal funding.

Actual expenditures incurred by the Department on road construction activities decreased by 55% from 2001 to 2005 (from \$79.4 million in 2001 to \$36.0 million in 2005). We note that both approved funding and actual expenditures increased in 2006 to \$68.5 million and \$58.0 million respectively.

The level of expenditure for road construction is significantly impacted by the amount of Federal funding available. Figure 3 outlines the Federal funding received for road construction from 2001 to 2006.

**Figure 3**

### Department of Transportation and Works Federal Funding Received for Road Construction Fiscal Years 2001 to 2006 (\$ 000's)



Excludes funding for the Labrador Highway and snow and ice removal.

### Impact of reduction in Federal funding

As Figure 3 shows, Federal cost-shared funding for road construction has decreased significantly over the last six years from \$52.3 million for 2001 to \$0.2 million for 2006. This decrease is attributed to the expiration of Federal/Provincial cost-shared agreements, e.g. the Roads for Rails agreement. Department officials did note that the budget for Federal funding increased in 2007 to \$12.5 million as part of a 3 year \$48 million 50/50 cost-shared program relating to the Trans Canada Highway.

---

## 4. Future Maintenance and Capital Requirements

---

### Strategic Plan

The Department of Transportation and Works' Strategic Plan for 2003-2006 states the Department's mission in part as “...to ensure a safe, efficient and sustainable transportation system...” In the Plan the Department identified that in order to achieve its goal it would be necessary to optimize the use of available funding by focusing on critical maintenance requirements.

---

### Infrastructure strategy

During the 2004 fiscal year the Department of Transportation and Works set up a working group to develop an infrastructure strategy. The working group released a report in November 2004 which concluded that Government's infrastructure, including Provincial roads, has deteriorated and additional funds are required to sustain it.

The report also stated that, at that time, approximately 35% or 2,450 kilometers of the Province's 7,000 kilometers of paved highways were in excess of 20 years old (Department officials indicated that the service life of asphalt is 20 years).

---

### Capital planning and budgeting

In September of each year the Department requests the regional offices to forward an update on the Provincial capital program rankings for their region. The regions prepare this update by electoral district along with a listing for the overall region. The total of the estimated capital requirements submitted by all regions for Provincial roads as at the end of the 2006 fiscal year was \$414.7 million comprised of \$327.9 million (79%) for paving and \$86.8 (21%) million for grading.

## Provincial Roads Maintenance and Construction

In addition to allocating total capital requirements between paving and grading, each project is rated as to safety, condition, class and economic impact.

### Road safety rating

Safety of the Province's road system is rated as either: essential; very high; high; moderate; or low or of no concern. While the Department did not have information readily available on the total kilometers of roads associated with each rating, it did have information on the funding identified by the regional offices in September 2005 as being required to address road safety issues within the Province.

Figure 4 outlines the capital requirements to address road safety issues.

**Figure 4**

**Department of Transportation and Works  
Capital Requirements to Address Road Safety Issues  
As of September 2005  
(\$ 000's)**

Rating	Region					Total
	Avalon	Eastern	Central	Western	Labrador	
Essential	9,025	-	490	500	-	10,015
Very high	-	8,030	3,075	-	6,000	17,105
High	250	24,140	29,850	6,150	150	60,540
<b>Sub-total</b>	<b>9,275</b>	<b>32,170</b>	<b>33,415</b>	<b>6,650</b>	<b>6,150</b>	<b>87,660</b>
<b>% of total</b>	<b>10.4%</b>	<b>31.9%</b>	<b>26.9%</b>	<b>9.6%</b>	<b>20.0%</b>	<b>21.1%</b>
Moderate	17,920	19,526	73,950	21,275	14,500	147,171
Low or of no concern	62,092	49,306	16,970	41,435	10,050	179,853
<b>Total</b>	<b>89,287</b>	<b>101,002</b>	<b>124,335</b>	<b>69,360</b>	<b>30,700</b>	<b>414,684</b>

Source: Highway Design Division

As Figure 4 shows, 21.1% of the total estimated capital requirements or \$87.7 million are ranked in terms of safety as either: essential; very high; or high.

## Provincial Roads Maintenance and Construction

### Road condition rating

The condition of the Province's road system is rated as either: very poor; poor; fair to poor; fair; good; or excellent. While the Department did not have information readily available on the total kilometers of roads associated with each rating, it did have information on the funding identified by the regional offices in September 2005 as being required to address overall road conditions within the Province.

Figure 5 outlines the capital requirements to address overall road conditions.

**Figure 5**

### Department of Transportation and Works Capital Requirements to Address Overall Road Conditions As of September 2005 (\$ 000's)

Rating	Region					Total
	Avalon	Eastern	Central	Western	Labrador	
Very Poor	-	10,171	490	7,800	-	18,461
Poor	24,940	25,666	64,355	7,025	6,000	127,986
Fair to Poor	29,940	40,661	53,140	14,750	2,950	141,441
<b>Sub-total</b>	<b>54,880</b>	<b>76,498</b>	<b>117,985</b>	<b>29,575</b>	<b>8,950</b>	<b>287,888</b>
<b>% of total</b>	<b>61.5%</b>	<b>75.7%</b>	<b>94.9%</b>	<b>42.6%</b>	<b>29.2%</b>	<b>69.4%</b>
Fair	32,482	24,504	6,350	32,935	17,900	114,171
Good	1,275	-	-	6,350	3,850	11,475
Excellent	650	-	-	500	-	1,150
<b>Total</b>	<b>89,287</b>	<b>101,002</b>	<b>124,335</b>	<b>69,360</b>	<b>30,700</b>	<b>414,684</b>

Source: Highway Design Division

As Figure 5 shows, 69.4% of the total estimated capital requirements or \$287.9 million are ranked as either: very poor; poor; or fair to poor. These improvements are required to bring the Province's road system up to at least a good condition (i.e. to significantly extend useful life of the roads).

## Provincial Roads Maintenance and Construction

---

### No long-term plan in place

There is no long-term plan currently in place to address the timing of capital funding and the priority of the work.

The regional directors informed us that the allocation of capital funding among the regions is for the most part based on road kilometers within each region.

---

### No Province-wide evaluation by risk or priority

There is no Province-wide risk assessment or priority basis for what work is performed when capital funding is provided. Regional Directors prioritize projects for the Provincial capital roads program and submit an annual listing to head office. Senior officials at the Department's Highway Design and Construction Branch complete their own assessment of the listings provided by the five Regional Directors and produce a listing of projects to be funded.

There are no formal written criteria to determine which projects will be undertaken from the regional allocations. For example, the allocations are based on essential projects as outlined by the regions, levels of funding previously provided to electoral districts within a region, direction provided by the Minister with respect to a specific project and so on.

---

### No planned preventative and preservation program

It is generally recognized that the service life of a road will only be maximized when a planned preventative and preservation program is followed. However, the Department has not developed such a program. Furthermore, a regional official indicated that their approach regarding road maintenance expenditures is not based on a formal plan but rather that “...we are in a reactive approach more so than a proactive approach regarding road maintenance expenditures.” Similar concerns were expressed by other regional officials.

---

## Recommendations

---

*The Department should:*

- *establish a formal program for regularly assessing road conditions on a systematic and objective basis;*
- *ensure that standards in its Highway Maintenance Management System (HMMS) used to estimate the cost of maintenance activities are reviewed and updated on a regular basis;*

- *ensure activity reports are generated from the HMMS on an annual basis as required and used by regional officials to compare standard to actual activity;*
  - *develop a long-term capital plan to address the timing of capital funding and the priority of the work; and*
  - *use a Province-wide risk assessment or priority basis for work to be performed when capital funding is provided.*
- 

### Department's Response

---

*The Department is in general agreement with the recommendations made by the Auditor General, and is in fact already moving in these directions. We do note, however, that many of the Auditor's observations and conclusions are more relevant to the period from 2001 to 2003. Since 2004 there has been a significant increase in the Provincial Government commitment to road maintenance and construction, as well as improvements to project planning and tender processes. Your report does not, in the Department's view, give any recognition or credit to achievements in recent years.*

*With regard to some specific issues, the Department offers the following comments:*

- *Visual inspection by highly trained and experienced maintenance/engineering personnel is an effective and reliable means to assessing actual road conditions. In 2007, the Department will be acquiring a state-of-the-art Automatic Road Analyser (ARAN) vehicle which will produce valuable scientific data to supplement the visual inspection process.*
- *The Department acknowledges that the Highway Maintenance Management System (HMMS) is not being effectively utilized, and has already initiated a process to update the standards and assess productivity against those standards.*



- *While funding for road maintenance and construction was seriously restrained for many years, there have been successive increases in the Provincial financial commitment in 2004, 2005 and 2006. The road maintenance and construction budget has now been restored to a level which allows the Department to address its priorities over a reasonable period of time. Early budget approval in 2006, and again in 2007, allows for early tendering, and virtually eliminates the carryover of projects to the subsequent year.*
- *The decline in gross expenditures on roads is due primarily to reductions in Federal Government contributions to road infrastructure. The Provincial financial contribution has increased significantly. Negotiations are also underway with the Federal Government for new cost-sharing arrangements. It is noted as well that in calculating expenditures, the Auditor General has excluded the Trans Labrador Highway which does represent a significant financial commitment by the Provincial Government.*
- *It is not accurate to suggest that there is no risk assessment or priority basis for the work performed with capital funding. Road conditions are assessed on a continuous basis, and road/bridge projects are selected for funding based on road/bridge condition, traffic volume, public safety, as well as other factors. The Department does have a long term plan for bridge remediation and replacement, as well as a multi-year list of road projects for consideration, subject to budgetary allocations. The fact that capital requirement can be estimated at \$414.7 Million (2006) is evidence of long term planning.*

*I trust the foregoing clarifies issues raised in relation to road maintenance and construction. Major increases in Provincial funding in recent years have achieved significant improvement in road conditions. This is clearly visible from the amount of construction work underway on our highways/bridges.*

---

**CHAPTER  
3  
UPDATE ON PRIOR  
YEARS' REPORT ITEMS**

**CONTENTS**

	<u>Year</u>	<u>Part</u>	
<b>Introduction</b> .....			357
<b>Comments on Departmental Audits</b>			
<b>Legislature</b>			
Office of the Child and Youth Advocate	2004	3.2.1	358
Office of the Citizens' Representative	2004	3.2.2	362
<b>Department of Education</b>			
Corner Brook / Deer Lake / St. Barbe School Board	2004	3.2.3	365
Lewisporte / Gander School Board	2004	3.2.4	369
Newfoundland School for the Deaf	2004	3.2.5	373
School Board Executive Compensation Practices	2004	3.2.6	378
Student Transportation	2004	3.2.7	380
<b>Department of Environment and Conservation</b>			
Contaminated Sites	2002	3.2.8	382
Solid Waste Management	2004	3.2.9	384
Used Tire Recycling Program	2004	3.2.10	390
Water Quality Management	2004	3.2.11	394
Inland Fish and Game Licenses	2004	3.2.12	397
<b>Department of Finance</b>			
Newfoundland and Labrador Liquor Corporation	2003	3.2.13	399
Gasoline Tax	2004	3.2.14	404
Tax Expenditures	2004	3.2.15	406
<b>Department of Fisheries and Aquaculture</b>			
Aquaculture Program	2004	3.2.16	409
<b>Department of Government Services</b>			
Food Premises Inspections and Licensing	2003	3.2.17	415
Elevating Devices and Other Inspections	2004	3.2.18	418
School Bus Safety Program	2004	3.2.19	420
Special Permits and In-Transit Permits	2004	3.2.20	423

# CHAPTER

## 3

### Update on Prior Years' Report Items

#### CONTENTS

	<u>Year</u>	<u>Part</u>	
<b>Department of Health and Community Services</b>			
Child Care Services	2003 .....	3.2.21 .....	425
Western Regional Health and Community Services Board	2003 .....	3.2.22 .....	429
Gambling Rehabilitation Services	2004 .....	3.2.23 .....	431
Grenfell Regional Health Services Board	2004 .....	3.2.24 .....	436
<b>Department of Human Resources, Labour and Employment</b>			
Newfoundland and Labrador Housing Corporation Non-Profit Rental Social Housing Units	2003 .....	3.2.25 .....	438
Income Support / Case Management Information System	2004 .....	3.2.26 .....	442
<b>Department of Innovation, Trade and Rural Development</b>			
EDGE Program	2004 .....	3.2.27 .....	444
Mining Company Investment	2004 .....	3.2.28 .....	448
xwave Contracts	2004 .....	3.2.29 .....	449
<b>Department of Justice</b>			
Office of the Commissioner of Petroleum Products Pricing	2003 .....	3.2.30 .....	452
Board of Commissioners of Public Utilities	2004 .....	3.2.31 .....	454
Fines Receivable	2004 .....	3.2.32 .....	461
Newfoundland and Labrador Legal Aid Commission	2004 .....	3.2.33 .....	463
<b>Department of Municipal Affairs</b>			
Fire Commissioner's Office	2004 .....	3.2.34 .....	468
Municipal Inspections	2004 .....	3.2.35 .....	472
<b>Department of Natural Resources</b>			
<i>Mining Act</i>	2003 .....	3.2.36 .....	474
<b>Department of Transportation and Works</b>			
Bridge Inspections	2003 .....	3.2.37 .....	476
Government-Owned Buildings and Properties	2004 .....	3.2.38 .....	477
Hull 100	2004 .....	3.2.39 .....	480

### 3.1 Introduction

---

We conduct legislative audits to provide the House of Assembly with information on public sector accountability. Legislative audits are carried out to determine whether:

- public money is being properly collected and accounted for;
- expenditures are properly recorded and made for the purposes intended;
- accounts are properly kept;
- assets are adequately safeguarded; and
- accounting and management systems and practices are adequate.

These legislative audits also determine whether the activities of Government departments and agencies have been carried out in compliance with legislation, Government policies and other authorities.

Monitoring the implementation of our recommendations is an important part of our obligation to report to the House of Assembly. Our objective is to monitor and report the degree to which positive change has occurred as a result of the implementation of recommendations in our prior years' reports.

In 1996, we commenced a formal process of monitoring and updating the comments and recommendations included in our previous Annual Reports to the House of Assembly. It is our intention to monitor and update the recommendations in each Annual Report two years after it has been issued. Monitoring will continue until we are reasonably satisfied that issues are being adequately addressed or are no longer valid.

This chapter includes the results of these monitoring activities on our Annual Reports up to and including 2004.

---

### Legislature

---

#### 3.2.1 Office of the Child and Youth Advocate (2004 Annual Report, Part 2.1)

---

##### Introduction

In 2004, we completed a review of the Office of the Child and Youth Advocate. Our objective was to review the expenditures of the Office of the Child and Youth Advocate and to determine whether the expenditures were in accordance with the approved budget, and in accordance with legislative requirements.

---

##### Conclusions from our 2004 review

Our audit of the Office of the Child and Youth Advocate identified a number of serious concerns relating to the operations of the Office. These concerns related to poor management practices at the Office, operation of an unauthorized bank account which was sometimes used for inappropriate purposes, non-compliance with the *Public Tender Act*, travel without authorization, and questionable expenditures related to such things as travel, personal vehicle mileage claims, entertainment, parking spaces for employees and cellular telephones. There were instances where the Child and Youth Advocate did not comply with direction provided by the Commission of Internal Economy.

Accounting for the Office of the Child and Youth Advocate was performed by the Office of the Clerk of the House of Assembly. As a result of numerous accounting errors in the accounts of the Office of the Child and Youth Advocate, the expenditure details in the Province's Public Accounts were not correct. One of the errors resulted in a contravention of the *Financial Administration Act* which prohibits the issue of public money for purposes other than those authorized by the Legislature. Furthermore, the Office of the Child and Youth Advocate was not always provided with sufficient information to enable the Office to monitor its expenditures.

---

## Update on Prior Years' Report Items

---

### Update

In November 2006, we contacted the Office of the Child and Youth Advocate requesting an update as to the progress on the comments and recommendations included in our 2004 report. The information provided by the Child and Youth Advocate in response to our request is outlined below.

---

#### **2004 Recommendation**

*The Child and Youth Advocate should ensure that all out of Province travel is approved, in advance, by the Speaker of the House of Assembly as required by policy.*

#### **Action Taken**

The Child and Youth Advocate indicated that the Speaker of the House of Assembly has pre-approved, through use of a journey authorization form, all out of province travel.

The Child and Youth Advocate also indicated that all employees' out of province travel is approved using journey authorization forms.

---

#### **2004 Recommendation**

*The Child and Youth Advocate should ensure that adequate documentation exists to evidence that travel expenditures represent only those incurred in the performance of Government business.*

### **Action Taken**

The Child and Youth Advocate indicated that all staff are required to obtain prior approval for any travel associated with Office business, and the details of that travel are documented on a journey authorization form. Following completion of the trip, all staff are required to complete a Travel Expense Claim Form detailing the expenses related to the trip attaching all required receipts. The claim form together with supporting documentation is submitted to the Manager of Human Resources and Administration for review. When the Manager is satisfied that the claimed expenses are in accordance with travel policies, the claim is forwarded to the Child and Youth Advocate for final review and approval.

---

### **2004 Recommendation**

*The Child and Youth Advocate should ensure that all private vehicle mileage claims are appropriately supported.*

### **Action Taken**

The Child and Youth advocate indicated that policies of the Public Service Secretariat are followed with respect to private vehicle mileage claims. Employees must use the Private Vehicle Mileage Report to document all travel involving the use of their private vehicles. All claims for private vehicle usage reimbursement must be claimed on the Travel Expense Claim Voucher and approved by the Child and Youth Advocate.

---

### **2004 Recommendation**

*The Child and Youth Advocate should comply with Government's entertainment policy and Executive Compensation Travel Rules.*

### **Action Taken**

The Child and Youth Advocate indicated that the Child and Youth Advocate travel claims are submitted in accordance with the policies and procedures for Executive compensation travel.

---



### **2004 Recommendation**

*The Child and Youth Advocate should comply with the Public Tender Act and Government's purchasing policies.*

### **Action Taken**

The Child and Youth Advocate indicated that the Office of the Child and Youth Advocate does comply with the *Public Tender Act* and the *Government Purchasing Agency Act* and has adopted the purchasing policies as outlined in the Government Purchasing Agency Customer Manual.

Items with an estimated value exceeding \$2,500 are purchased through the government tender process. Items with an estimated value under \$2,500 are purchased from Standing Offer, or by obtaining three quotations from suppliers, or by establishing a fair and reasonable price.

---

### **2004 Recommendation**

*The Child and Youth Advocate should comply with the direction provided by the Commission of Internal Economy, e.g. staff positions and staff parking.*

### **Action Taken**

The Child and Youth Advocate indicated that steps have been taken to restructure staffing arrangements, and that salary scales for all new positions are in line with similar positions within Government and the House of Assembly.

With respect to parking, the Child and Youth Advocate indicated that Office staff has been made aware that parking is a personal expense. It was also indicated that the Office lease includes three complimentary parking spaces but in accordance with Office policy, no employee will receive a parking space free of charge unless three or fewer employees require parking.

---

### 2004 Recommendation

*The Child and Youth Advocate should establish formal policies and procedures governing the provision and use of cellular telephones and ensure that all use is properly monitored.*

### Action Taken

The Child and Youth Advocate indicated that while a policy and procedures manual for the Office has not been finalized, many of Government's policies and procedures, including those for cell phone usage, are currently being followed.

---

## 3.2.2 Office of the Citizens' Representative (2004 Annual Report, Part 2.2)

---

### Introduction

In 2004, we reviewed the Office of the Citizens' Representative. Our review covered the period from 1 February 2002 to 30 June 2004. Our objective was to review the expenditures of the Office of the Citizens' Representative and to determine whether they were in accordance with the approved budget, and in accordance with legislative requirements.

---

### Conclusions from our 2004 review

My audit of the Office of the Citizens' Representative identified a number of concerns relating to the operations of the Office. In particular, claims for private vehicle usage appeared excessive, private vehicle mileage was incorrectly claimed between the Citizens' Representative's permanent residence and the Office, there were inconsistencies related to private vehicle usage claims and traveling without authorization. In addition, there were management practice issues relating to such matters as cellular telephones and entertainment. Furthermore, there was an instance of non-compliance with the *Citizens' Representative Act* and another instance of non-compliance with the *Public Tender Act*.

## Update on Prior Years' Report Items

---

Accounting for the Citizens' Representative Office is performed by the Office of the Clerk of the House of Assembly. As a result of numerous accounting errors in the accounts of the Office of the Citizens' Representative, the expenditure details in the Province's Public Accounts were not correct. Furthermore, the Office of the Citizens' Representative was not always provided with sufficient information to enable the Office to monitor its expenditures.

---

### Update

In November 2006, we contacted the Office of the Citizens' Representative requesting an update as to the progress on the comments and recommendations included in our 2004 report. The information provided by the Citizens' Representative in response to our request is outlined below.

---

#### **2004 Recommendation**

*The Citizens' Representative should comply with the Citizens' Representative Act.*

#### **Action Taken**

The Citizens' Representative indicated that to the best of their knowledge, the Office is complying with all sections of the Citizen's Representative Act. It was also stated that they did not hold another public office or carry on a trade, business, or profession since being appointed Citizens' Representative.

---

#### **2004 Recommendation**

*The Citizens' Representative should comply with the Public Tender Act.*

#### **Action Taken**

The Citizens' Representative indicated that to the best of their knowledge, the Office is complying with the *Public Tender Act* in the acquisition of all goods and services.

---

### **2004 Recommendation**

*The Citizens' Representative should ensure that all out of Province travel is approved, in advance, by the Speaker of the House of Assembly as required by policy.*

### **Action Taken**

The Citizens' Representative indicated that all of their out of Province travel is approved in advance by the Speaker. Further, it was indicated that staff travel is approved by Official Journey Authorization in accordance with public service guidelines.

---

### **2004 Recommendation**

*The Citizens' Representative should comply with Government's entertainment policy and Executive Compensation Travel Rules.*

### **Action Taken**

The Citizens' Representative indicated that to the best of their knowledge, the Office is complying with Government's entertainment policy and Executive Compensation Travel Rules in all respects.

---

### **2004 Recommendation**

*The Citizens' Representative should establish formal policies and procedures governing the provision and use of cellular telephones and ensure that all use is properly monitored.*

### **Action Taken**

The Citizens' Representative has indicated that in consultation with the Speaker's Office, formal policies and procedures governing the provision and use of cellular telephones is being developed and all use is properly monitored.

---

### Department of Education

---

#### 3.2.3 Corner Brook / Deer Lake / St. Barbe School Board (2004 Annual Report, Part 2.7)

---

##### Introduction

In 2004, we performed a review of the Corner Brook/Deer Lake/St. Barbe School Board. The objectives of our review were to:

- review the financial position and operating results of the Board; and
  - determine whether controls and systems for the acquisition of goods and services were adequate and complied with Board policies and the *Public Tender Act* and *Regulations*.
- 

##### Conclusions from our 2004 review

As a result of our review, we concluded that:

- The Board's financial position and operating results were deteriorating. Specifically, the Board reported operating deficits in 4 of the 6 fiscal years since 1997, an accumulated deficit of \$10.9 million and the highest bank indebtedness of all school boards of \$1.4 million.
- The Board contravened the *Schools Act, 1997*. Specifically, the Board incurred annual operating deficits without the prior approval of the Minister, paid 3 of its 4 executive personnel a total of \$38,702 annually in excess of pay rates approved by Government, and entered into financial arrangements to purchase \$223,681 in equipment without the prior approval of the Minister.
- The Board contravened Government policy. Specifically, the Board spent \$16,400 on retirement receptions and gifts, provided 4 executive staff with mileage allowances of \$252 per month in lieu of submitting mileage claims for local travel, and reimbursed staff travel without adequate documentation to support the travel claim.

## Update on Prior Years' Report Items

---

- The Board contravened the *Public Tender Act* and *Regulations*. Specifically, the Board did not publicly tender 13 sampled items totalling \$478,526, maintain required documentation on all tender files, and obtain 3 quotes or establish a fair and reasonable price on 13 items less than \$10,000 totaling \$52,427. In addition, the Board provided one bussing contract to a Board employee without going to tender and overpaid \$10,958 from tendered prices in 5 instances.

On 1 September 2004, the Board was integrated into the Western School District (the District).

---

### Update

In November 2006, we contacted the District requesting an update as to progress on the comments and recommendations included in our 2004 report.

In summary, the District stated that it has made, and continues to make, a concerted effort to resolve the issues identified in the audit report and is pleased to communicate the positive work on these issues. However, the District stated that it continues to operate with inadequate staffing levels and this remains a major challenge. Information provided by the District in response to our specific recommendations is outlined below.

---

### 2004 Recommendation

*The Board should take action to address the increasing deficit.*

### Action Taken

The District indicated that it has taken steps which have totally eliminated the deficit. The District stated it will be operating with a balanced budget in future years.

---

### 2004 Recommendation

*The Board should comply with the Schools Act, 1997.*

### Action Taken

The District indicated that it complies with the *Schools Act, 1997* and that the specific concerns raised by the Auditor General were addressed.

---

### **2004 Recommendation**

*The Board should comply with the Public Tender Act and Regulations.*

### **Action Taken**

The District indicated that it continues to operate with limited human resources to manage this area. The District stated that despite this impediment, a number of improvements have been implemented as follows:

- a Purchasing Officer was hired to manage the purchasing function;
  - a purchasing policy is being developed for the District; and
  - purchasing guidelines have been established and communicated to Principals and other managers.
- 

### **2004 Recommendation**

*The Board should comply with Government's travel policies.*

### **Action Taken**

The District indicated that it understands its obligation to follow the personnel administrative policies of Government. The District indicated that the following improvements have been implemented in this area:

- Travel guidelines have been established and written on all travel claims.
  - A policy manual has been developed which contains travel guidelines to be followed by the District. The policy manual is a collection of Government policies.
  - New travel forms have been developed, complete with pertinent information (i.e. time departure, time of return, rates, etc.).
-

### 2004 Recommendation

*The Board should address conflict of interest matters.*

### Action Taken

The District indicated that this matter has been addressed, and that public tenders have been called for the bussing contracts reported on.

---

### 2004 Recommendation

*The Board should strengthen financial controls relating to purchasing and travel.*

### Action Taken

The District indicated that it has strengthened financial controls relating to purchasing and traveling. The District indicated the following illustrations of this initiative:

- purchasing guidelines have been established for purchases less than \$10,000 (i.e. three quotations) and greater than \$10,000 (i.e. public tender) and have been communicated to schools and staff at the District Office;
- a new purchasing policy is being finalized by the Purchasing Manager;
- the Minister of Government Services, (House of Assembly), are notified of sole source suppliers and other exceptions as listed in the *Public Tender Act*;
- required documentation is provided for tender files (i.e. attendance sheets for public opening, date and time stamp, etc.);
- no allowances are paid for local travel;
- travel claims are complete (i.e. time of departure and arrival on travel forms, etc.);
- a new travel claim form is in use which details basic travel guidelines (i.e. recovery from third party and car pooling);



## Update on Prior Years' Report Items

---

- new hardware and software set up for the District Office;
  - all bussing routes (special transportation and regular transportation) are required to follow the *Public Tender Act*;
  - invoices are reconciled to tender contracts of Government documents (i.e. bussing);
  - systems are in place for monitoring snow clearing contracts (i.e. time/attendance sheet);
  - reimbursement for travel and meals cannot be processed using Visa or MasterCard receipts; and
  - accounts receivable are set up for advance payments and reconciled as required.
- 

### 3.2.4 Lewisporte / Gander School Board (2004 Annual Report, Part 2.8)

---

#### Introduction

In 2004, we completed a review of the acquisition of goods and services by the former Lewisporte/Gander School Board (the Board). Our review covered the period 1 July 2002 to 31 December 2003. Effective 1 September 2004 the operations of the Lewisporte/Gander School Board was dissolved into the newly created Nova Central School District. The objectives of our review were to:

- review the financial position and operating results of the Board; and
  - determine whether controls and systems for the acquisition of goods and services were adequate and complied with Board policies and the *Public Tender Act* and *Regulations*.
-

### Conclusions from our 2004 Review

As a result of our review, we concluded the following:

- At 30 June 2003, the Board had a total accumulated deficit of \$16.1 million. The Board had incurred annual operating deficits in three of its six complete fiscal years of operation since it was created in 1997; however, it had never requested prior approval of the Minister of Education as required by the *Schools Act, 1997*.
- The Board was paying its four executive personnel a total of \$37,381 annually in excess of the pay rates approved by Government. Furthermore, although all employment contracts of Board executives were required to have the written approval of the Minister of Education, the four contracts submitted to the Department were never approved by the Minister. As a result, the Board was not in compliance with the *Schools Act, 1997* and was utilizing funds designated for other purposes to top-up executive salaries.
- The Board entered into financing lease arrangements related to photocopiers without the prior approval of the Minister of Education as required by the *Schools Act, 1997*. These lease payments totalled approximately \$710,000 over a five year period. The Board also violated the *Schools Act, 1997* in that it did not obtain the prior approval of the Minister of Education when it entered into an agreement to share costs with the Roman Catholic Episcopal Corporation for the demolition of a vacant school owned by the Corporation. The Board proceeded contrary to the position of the Department. The Board's share of the demolition cost was \$92,450.
- The Board contravened the *Public Tender Act* in that it did not always call public tenders for purchases greater than \$10,000 and it did not always obtain either three quotes or establish a fair and reasonable price for purchases \$10,000 and less. We identified 8 purchases totalling \$157,024 which were not publicly tendered and 14 purchases totalling \$52,533 where three quotes were not obtained. Furthermore, the Board was not complying with the *Public Tender Act* in that it did not notify the Minister of Government Services and, therefore, the House of Assembly of any public tender exceptions such as sole source or emergency purchases.

## Update on Prior Years' Report Items

---

- Two of the Board's vehicles were available for the use of two management staff on a 24 hour basis; however, no logs were maintained to determine the extent of any personal use. Furthermore, neither of these 2 vehicles had markings to identify them as Board-owned vehicles.
- 

### Update

In November 2006, we contacted the Nova Central School District requesting an update as to the progress on the comments and recommendations on the former Lewisporte/Gander School Board included in our 2004 report. The information provided by the School District in response to our request is outlined below.

---

#### **2004 Recommendation**

*The Board should take action to address the accumulated deficit.*

#### **Action Taken**

The Board indicated that because Government requires school boards in the Province to follow an accrual accounting process that is modified for school boards, in that they are required to report accrued liabilities for teachers' severance pay and teachers' holdback (summer) pay but are not permitted to accrue the offsetting receivable for these accruals which are held and paid out by Government, the former Lewisporte/Gander School Board reported a deficit in 2004.

As of June 2006, the Nova Central School District reported a surplus of \$595,654. This surplus excludes the teacher severance accrual and the accrued holdback (summer) pay.

---

### **2004 Recommendation**

*The Board should comply with the Schools Act, 1997.*

### **Action Taken**

The Board indicated that:

- The salaries for the executive branch of the Nova Central School District have been approved by Treasury Board. The School Board does not supplement the salaries of its senior administrators and is in compliance with Section 92 of the *Schools Act, 1997*.
- Effective immediately the Board will seek Ministerial approval prior to leasing photocopiers for its schools and offices, as per Section 87 of the *Schools Act, 1997*.
- Since 2004, no arrangement regarding the demolition of schools has occurred.
- Since 2004, all utility bills (approximately 200 per month) have been paid in as efficient a manner as possible, given the low level of staff support at District Office.

---

### **2004 Recommendation**

*The Board should comply with the Public Tender Act and Regulations.*

### **Action Taken**

The Board indicated that since 2004 they have complied with the *Public Tender Act and Regulations*.

---

### 2004 Recommendation

*The Board should strengthen controls relating to purchasing and capital assets.*

### Action Taken

The Board indicated that they have recently assigned the responsibility of implementing policies and procedures for the purchase and control of assets to the Organizational Budget Analyst position. It is anticipated that the employee in this position will be able to fulfill their assigned responsibilities when Treasury Board approves supplemental support for the Nova Central School District.

---

### 3.2.5 Newfoundland School for the Deaf (2004 Annual Report, Part 2.10)

---

#### Introduction

In 2004, we reviewed the Newfoundland School for the Deaf (the School). The School is operated by the Department of Education (the Department) through the Student Support Services Division. The mandate of the School is to provide a comprehensive educational program for deaf children so each individual can grow to full potential and function as a productive member of society. The School is located in St. John's and has both a day and residential school operation. The objectives of our review were to review the adequacy of the:

- student enrolment and teaching allocations;
  - leave control system;
  - system for controlling moveable capital assets; and
  - purchasing and payment processing system, including whether there was compliance with relevant contracts and other authorities.
-

### Conclusions from our 2004 review

As a result of our review, we concluded that there were significant management weaknesses at the School and although the Department had been aware of many of these issues for quite some time, it had not taken sufficient action to ensure that these weaknesses were addressed. In particular:

- The School had been over allocated a total of 23.3 teaching units at an approximate cost of \$1.5 million over the five year period to 2003-04. Although the Department of Education had been aware of this over allocation since 2000-01, they continued to fund the over allocation for 2002, 2003, and 2004.
- Officials had not addressed the decline in the number of students staying in residence to determine whether cost savings could be realized. During 2003-04 there were only 21 students in residence. The School has a residence with 5 wings which can accommodate 84 students and also has 4 apartments which can accommodate 16 students, for a total capacity of 100 students. Only 2 students were staying in residence on weekends being cared for by the equivalent of 3 full-time positions. Furthermore, the Department of Education was projecting further declines in student enrolment.
- The School's administration of overtime and leave was not adequate in that required approvals were not always provided and overtime and leave was not always properly documented and recorded. Employees were earning excessive amounts of overtime, e.g. 23 residential staff earned 782 days of overtime during 2003-04 and used 751 days of this leave. Furthermore, these staff were using this overtime to cover School break periods when they would normally not be needed, i.e. Summer, Christmas, Easter and other School breaks.
- The School was not adequately managing its food service contract which for 2002-03 cost \$159,432. The School had not been diligent in requiring the contractor to provide the information required under the food service contract and which would be necessary for the School to properly manage this expenditure.
- The School had a transportation contract with a total annual cost of \$62,120, for the daily transportation of 46 students from the St. John's and surrounding area; however, when the contract was entered into, student enrolment was only 37. Furthermore, School officials were aware student enrolment would be declining even further. No provision was included in this contract which would allow the School to adjust costs for changes in circumstances.

---

## Update on Prior Years' Report Items

---

- The School contravened the *Public Tender Act* in that it did not always obtain the required three quotes or provide documentation that a fair and reasonable price was established.
- School officials were unable to explain a shortage of \$157 that we identified during a cash count of the School's \$2,000 petty cash float.
- Contrary to the Department of Education's policy, the School was providing textbooks for all students without charge. Furthermore, up to 2002, the School provided supplies to its students without charge.
- The School opened a bank account without the required approval by Treasury Board Secretariat to deposit receipts from the rental of the School's theatre, gym and other facilities, as well as donations from religious and other non-profit organizations. Revenues for 2003-04 totalled \$12,525 (2003 - \$9,952) and at 31 March 2004 the account had a balance of \$9,421 (2003 - \$8,114). Amounts were spent from this account to pay for conference costs, equipment rental, residential supplies, bus transportation and miscellaneous expenses. As a result of not having these expenditures processed through Government's financial management system, they were not subject to approvals and controls applicable to all Government purchases. Instead, these funds were spent at the discretion of School officials.
- The School was not adequately controlling its capital assets in that the inventory listing was incomplete and not maintained on a current basis, not all assets had unique identification numbers affixed, and a physical count had not been conducted in the past 10 years. Our testing of capital assets indicated instances where assets on the listing could not be located and assets in various locations could not be traced to the listing.

---

### Update

In November 2006, we contacted the Department of Education requesting an update as to the progress on the comments and recommendations included in our 2004 report. The information provided by the Department in response to our request is outlined below.

---

### 2004 Recommendations

*The Department of Education should:*

- *ensure that the Newfoundland School for the Deaf addresses the significant management weaknesses identified in this report;*
- *ensure that officials at the School are fully aware of Government's policies and procedures required to be followed, and that they fully comply with these requirements;*
- *address the issue of over-allocated teaching positions at the School;*
- *address the decline in the number of students staying in residence to determine whether cost savings could be realized;*
- *consider the appropriateness of allowing School staff to use overtime to cover School break periods; and*
- *address the remaining weaknesses identified by the Department's consultant.*

*The Newfoundland School for the Deaf should:*

- *ensure that overtime and leave is properly documented, recorded and approved;*
- *be diligent in requiring its food service contractor to provide the information necessary to manage the food service contract;*
- *ensure that provision is made where possible in future contracts to allow the School to adjust costs for changes in circumstances;*
- *comply with the Public Tender Act;*
- *investigate and recover the \$157 shortage identified in the School's \$2,000 petty cash float;*
- *comply with the Department of Education's policy regarding textbooks;*



## Update on Prior Years' Report Items

- *obtain the approval of the Treasury Board Secretariat when opening bank accounts, and approach the Secretariat to obtain approval for the student activities and the student trust bank accounts;*
- *ensure that all expenditures from the student activities account are processed through Government's financial management system;*
- *adequately control its capital assets; and*
- *conduct a physical count of its capital assets to ensure that all School-owned assets are accounted for.*

### Action Taken

The Department of Education reports that it has taken action to address the management weaknesses identified in the various operating areas noted in the report. The specific action reported as being taken in each area is as follows:

- The Department has conducted information sessions with the appropriate staff at the School outlining Government's policies, practices and procedures. Compliance with policy is being monitored by the Department.
- The process for the allocation of teaching units followed in prior years has not changed. As part of the Teacher Allocation Review process the School for the Deaf's allocation will be reviewed. It should be noted that in 2006-07 Government again retained an additional 151 teaching units in the system and the School for the Deaf received an allocation.
- The leave and overtime management practices noted in the 2004 Report have been discontinued. Staff at the School have been directed to comply with Government's leave and overtime policies.
- Clauses have been incorporated into the current food services contract (awarded for school year 2005) which adequately manage the food services delivered at the School by the contractor.
- Requests for goods and/or services at the School are now routed through the Financial Services Division of the Department of Education.

## Update on Prior Years' Report Items

---

- The cash shortage identified in the 2004 Report has been recovered.
  - The Department has implemented a re-organizational plan for the student residence that will result in a more cost effective operating support system.
  - The School is now complying with the Department's policy regarding textbooks.
  - Treasury Board approval has been obtained for the student activities and the student trust bank accounts.
  - A capital asset system has been established at the School. At the time this was done, a physical inventory count was conducted.
- 

### 3.2.6 School Board Executive Compensation Practices (2004 Annual Report, Part 2.11)

---

#### Introduction

In 2004, we performed a review of school board executive compensation practices. The objectives of our review were to determine whether:

- school boards' compensation of directors and assistant directors were in compliance with legislation and Government policies; and
  - the Department of Education was monitoring the remuneration practices of each school board and that policies are established and communicated.
- 

#### Conclusions from our 2004 review

As a result of our review, we concluded that the Department of Education created inconsistencies in the salary scales of the 5 newly created boards in 2004 similar to the inconsistencies created in 1996 when the 27 former boards were reorganized into 11 school boards. Specifically, the Department:

- Implemented the newly approved salary scales in only 3 of the 5 new school boards.

---

## Update on Prior Years' Report Items

---

- Did not adjust salaries for all executives of the former boards whose salaries were in excess of salaries approved by Cabinet. 10 of the former 11 school boards contravened the *Schools Act, 1997* and approved salaries for 38 of their 42 executive totalling approximately \$322,000 in excess salaries.
- Placed 5 employees of the former boards to the new boards above step 25 of the Province's management employment scale.

In addition our review identified that two former school boards contravened Government policy. One board reimbursed its 4 executive a total of \$12,096 annually for local mileage in lieu of submitting mileage claims while another board provided \$34,000 to one executive for leave and overtime in contravention of executive compensation practices.

---

### Update

In November 2006, we contacted the Department of Education requesting an update as to progress on the comments and recommendations included in our 2004 report. The information provided by the Department in response to our request is outlined below.

---

### 2004 Recommendation

*The Department of Education should ensure school boards comply with the Schools Act, 1997 and Government policy.*

### Action Taken

The Department indicated that since 2004, it has taken action to ensure consistency in its policies governing the compensation for school board executive.

---

### 2004 Recommendation

*The Department of Education should apply policies and procedures related to school board executive compensation consistently.*

### Action Taken

The Department indicated that, in conjunction with the Newfoundland and Labrador School Boards' Association, it has drafted a standard employment contract for school board executive which has to be completed and submitted to the Minister of Education for approval.

---

### 3.2.7 Student Transportation (2004 Annual Report, Part 2.12)

---

#### Introduction

In 2004, we reviewed the student transportation system in the Province. Responsibility for student transportation is shared between the Department of Education and the school boards. The objectives of our review were to:

- Review student transportation costs in the Province;
  - Determine whether there were adequate systems and practices in place for the safe transportation of students; and
  - Ensure compliance with legislative requirements.
- 

#### Conclusions from our 2004 review

As a result of our review, we concluded the following:

- The Department made a decision that some school districts should have board-owned buses because it was believed to be cheaper for the board to operate their own buses rather than contract out student transportation to private contractors. However, we found that the average annual cost to operate board-owned buses was significantly higher than the average annual cost for contracted buses.

---

## Update on Prior Years' Report Items

---

- There were no standards specific to school bus drivers included in legislation under the *Schools Act, 1997*, and there was no policy direction from the Department setting out the employment and training requirements for school bus drivers. Furthermore, the Department did not require school boards to check for criminal records of all bus drivers. We found a school bus driver in the Avalon East School District to have had a number of criminal convictions, including impaired driving, break and enter and theft.
- Irregularities in the bus contract tendering process at the Avalon East School Board resulted in the board paying \$1.8 million more annually than in the previous years' contract.

---

### Update

In November 2006, we contacted the Department of Education requesting an update as to the progress on the comments and recommendations included in our 2004 report. The information provided by the Department in response to our request is outlined below.

---

#### **2004 Recommendation**

*The Department of Education, in consultation with the school boards, should develop standards for school bus drivers which would assist in determining the acceptability of drivers and ensure that criminal record checks are regularly made to ensure these standards are applied by the school boards on a Province-wide basis.*

#### **Action Taken**

The Department maintains it is always cognizant of school bus safety when providing transportation services for students. In this regard, the Department / school board has amended the wording of busing contracts to stipulate that a character check has to be performed and a certificate of conduct has to be obtained for a bus operator.

---

### 2004 Recommendation

*The Department of Education, in consultation with the school boards, should develop and provide an appropriate training program for all school bus drivers, students and school board staff.*

### Action Taken

The Department indicated that it has:

- participated with the various school boards in conducting an annual in-service on school bus safety in the board-owned operated system;
  - worked with the Newfoundland and Labrador Bus Operators' Association to promote driver training and provided financial assistance to bus contractors for their drivers to take safety training such as first aid, etc;
  - conducted a major advertising campaign on school bus safety at the beginning of each school year; and
  - worked closely with Highway Enforcement Officers in the Department of Government Services on school bus safety issues.
- 

## Department of Environment and Conservation

---

### 3.2.8 Contaminated Sites (2002 Annual Report, Part 2.8)

---

#### Introduction

In 2002 we performed a review of contaminated sites. The objective of our review was to determine whether contaminated sites were adequately controlled and managed.

---

## Update on Prior Years' Report Items

---

### **Conclusion from our 2002 review**

As a result of our review, we concluded that there was no central inventory of contaminated sites that are the responsibility of the Province or those that are the responsibility of private owners.

---

### **2004 Update**

In our 2004 annual report, we included an update on the Department's progress towards implementing the recommendations contained in our 2002 report. At the time, the Department indicated that it had set up a registry and database with information regarding contaminated sites and remediated sites, however only data for some and not all sites managed by the Government Services Centres had been input. Information on other sites would be input when it became available.

---

### **2005 Update**

In our 2005 annual report, we included an update on the status of the excluded sites. The Department indicated progress had been made, on an ongoing basis, of incorporating some information for sites managed by the Government Services Centres. It hoped to provide greater focus on managing Government wide data in the future depending on resources.

---

### **Update**

In November 2006, we contacted the Department of Environment and Conservation requesting an update as to any further progress on the comments and recommendations included in our 2002 report. The information provided by the Department in response to our request is outlined below.

---

### **2002 Recommendation**

*Government should establish a central inventory for contaminated sites which would facilitate the identification of future remediation costs.*

### **Action Taken**

The Department indicated that it takes the issue of contaminated sites under its control very seriously. Over the past few years, the Department has been involved with and taken action at sites such as Hope Brook Mine, Baie Verte Mine, former military sites at Jerry's Nose and West Bay, various Transportation and Works depots and the former military site at St. Anthony. Work on some of these sites is still in progress.

Various departments have in the past kept their own inventories of contaminated sites. The Department of Environment and Conservation has established a registry of contaminated sites so that the overall picture of Government's position can be more fully evaluated. This registry is developing as new and old files are incorporated.

In 2006, the Department of Environment and Conservation contacted all Government departments in an effort to have all contaminated sites identified. While all departments have responded to the request from this Department, not all departments have submitted information. Some departments have a considerable number of properties under their mandate and are still collecting the requested data, while other departments have to seek this information from associated parties, i.e. Education and their school boards. This Department will continue to liaise with the relevant departments until all required data is recorded.

---

### **3.2.9 Solid Waste Management (2004 Annual Report, Part 2.13)**

---

#### **Introduction**

In 2004, we reviewed solid waste management in the Province. Although the planning and delivery of waste management in Newfoundland and Labrador is the direct responsibility of municipalities and communities, the Province holds overall responsibility for the development and enforcement of policies, regulations and standards related to the municipal management of waste. The departments of Environment and Conservation (development of policies and standards), Municipal Affairs (provision of funding, resources and direction to municipalities and regional waste management committees) and Government Services (inspection of facilities and determination of compliance with established standards) are all responsible for the overseeing of waste management. The Multi-Materials Stewardship Board also has an integral role in the Province's waste management initiatives through its recycling, public awareness and funding programs. The objectives of our review were to determine what progress the Province had made towards a Province-wide waste management system and whether the Province had systems in place to monitor and regulate waste management activities.

---



### Conclusions from our 2004 review

As a result of our review, we concluded the following:

- The Province had a significant issue to deal with regarding waste management. The problem had resulted because historically, we had not recycled, there was no strategy as to either the number of landfill sites or their location, there was little control over access to the sites or what was being dumped, open burning and incinerators were commonly used, and the landfill sites were not lined.
- In 1989, at a meeting of the Canadian Council of Ministers of the Environment, Government set a goal to reduce the amount of waste going for disposal by 50% by the year 2000. However, in 2002, Newfoundland and Labrador had a waste diversion rate of only 9%, the lowest rate of waste diversion of any province in Canada, compared to the 27% diversion rate averaged by the other Atlantic Provinces.
- This Province had a disproportionate number of waste disposal sites compared to the other Atlantic Provinces. In 2004, the Province had 201 waste disposal sites versus a combined total of 25 disposal sites for the other three Atlantic Provinces.
- A report prepared by Government's Waste Management Advisory Committee in October 2001 indicated that incinerators in our Province produced more than one-third of the total volume of dioxins and furans from municipal incineration in Canada. Open burning, which was not measured and was common in more than half of the other sites in the Province, produced even more dioxins and furan emissions.
- The Multi-Materials Stewardship Board (MMSB), which had a mandate to develop, implement and manage effective waste management programs, takes its direction from the Department of Environment and Conservation (the Department). However, the Department had not identified programs to adequately address all significant areas for waste diversion (e.g. paper and organic which accounted for 67% of waste). Furthermore, MMSB was not meeting its beverage recycling program targets and there were issues relating to its used tire recycling program.

## Update on Prior Years' Report Items

---

- In April 2002, a Provincial Waste Management Strategy was issued indicating that a Province-wide modern waste management system would be implemented by 2010 at a projected cost of \$150 - \$200 million. However, there were funding and timing concerns with the implementation of the Strategy. Neither the timing of required funding nor the source (Federal, Provincial or municipal) of this funding was identified in the Strategy. In addition, the Strategy did not include annual targets to measure progress towards the various initiatives such as diverting waste, closing unlined landfill sites and constructing new lined sites.
  - In 2004, there were 201 unlined landfill sites in the Province. The use of a liner controls the escape of leachate and provides for its recovery and treatment to minimize potential environmental consequences. While the Strategy did not indicate that all unlined sites would be remediated, it was likely that some sites would require remediation at a significant cost.
  - Government did not have complete and accurate information available on its landfill sites to determine the status of each site for use in planning, implementation, and monitoring of these sites.
- 

### Update

In November 2006, we contacted the Department of Environment and Conservation and the Department of Municipal Affairs requesting an update as to the progress on the comments and recommendations included in our 2004 report. The information provided by the departments in response to our request is outlined below.

---

### 2004 Recommendations

*Government should:*

- *ensure that the Province moves toward a modern waste management system and implements the Provincial Waste Management Strategy by the planned 2010 completion date; and*
- *develop a schedule to indicate when the Provincial Waste Management Strategy's estimated \$150 million to \$200 million funding will be required and identify the source of this funding, eg. Federal, Provincial or municipal.*

### Action Taken

The Department of Environment and Conservation indicated that the implementation of the Waste Management strategy has been impeded due to the lack of significant funding. The plan, as proposed in 2002, had a \$2 million price tag associated with it. The Department of Municipal Affairs has recently acquired a major source of funding and the capability now exists to move forward in a significant way. The Department of Municipal Affairs, in consultation with the Department of Environment and Conservation, are in the process of developing a Cabinet Paper outlining the process for moving forward on the Waste Management Strategy.

The Department of Municipal Affairs indicated that it was able to secure an allocation of funding to undertake implementation of the Provincial Waste Management Strategy via the Federal Gas Tax Agreement. Full implementation of the strategy will not result by 2010 as funding to undertake the work could not be secured until 2006. A revised approach that better recognizes the financial and environmental requirements of this undertaking is being prepared for Government's consideration.

The Department of Municipal Affairs also indicated that a schedule of required funding will be completed as part of the implementation process for the Provincial Waste Management Strategy. The signing of the Gas Tax Agreement has secured \$22 million over the next four years with a potential for \$123 million if the Gas Tax Agreement is extended for another ten years. The Department of Municipal Affairs has also allocated a portion of its Capital Works budget to support the implementation of this Strategy.

---

### 2004 Recommendation

*The Department of Environment and Conservation should ensure that the MMSB is proactive in its efforts to increase opportunities for waste diversion.*

### Action Taken

The Department of Environment and Conservation indicated that they have worked with the MMSB to launch two new strategic waste diversion programs over the past two years: a regional-community based fibre (paper, cardboard) recycling initiative and a Province-wide residential (backyard) composting program. Attention was focused in these areas, as approximately two-thirds of the total waste stream in the Province is comprised of fibre and organic materials. Tackling these two waste streams are critical to the achievement of the overall 50% waste diversion goal set in the Provincial Waste Management Strategy.

Specific fibre recycling initiatives have been implemented in the greater St. John's region, Mount Pearl, Corner Brook, Lewisporte and Campbellton, and the Exploits Regional Services Board in central Newfoundland. Other regional-community fibre recycling initiatives are also being considered, pending the full implementation of comprehensive new regional waste management systems throughout the Province that will incorporate the necessary infrastructure to support broader-based waste diversion and recycling activities in the Province.

MMSB's Province-wide residential (backyard) composting program was launched in the fall of 2005. The goal over two years was to increase household participation by 50% through a multi-faceted effort which included the distribution of 15,000 new compost bins and 5,000 "build-your-own" compost plans. Almost 10,000 compost bins were sold in the first three months of the program. In response to the strong public interest in the program, and in consideration of the environmental and waste management benefits from increased participation in backyard composting generally, the MMSB has invested in an additional 5,000 bins and expects to meet and exceed all goals originally established for this initiative.

Other new strategic waste diversion and recycling initiatives are under consideration by the Department and MMSB, including a potential electronics waste diversion program and a paint recycling program, both of which are pursued in the context of an Atlantic Canada industry stewardship approach to implementation.

---

### **2004 Recommendation**

*The Department of Environment and Conservation should formalize Environmental Standards for Municipal Solid Waste Containment Landfills.*

### **Action Taken**

The Department of Environment and Conservation indicated that the implementation of the Provincial Waste Management Strategy necessitates the development of standards for the associated facilities. In 2002, the Department engaged a consultant to develop 6 standards (decommissioning landfills, landfills, transfer stations, composting facilities, material recycling facilities, construction and demolition of landfills). The consultant submitted draft standards in 2003.

With the implementation of the Strategy anticipated in the near future, the Department is undertaking a review and enhancement of the standards. The draft standards provide the foundation but not the details necessary to proceed.

Consequently, the Department has assigned one person and will be assigning a second person to review the standards and enhance them to the point where committees and consultants will have the direction necessary to implement the Strategy. Standards should be available in fiscal year 2006-07.

---

### **2004 Recommendation**

*The Department of Municipal Affairs should continue the process of updating the Waste Management Information System.*

### **Action Taken**

The Department of Municipal Affairs indicated that it is continuing the process of updating the Waste Management Information System in consultation with the Department of Environment and Conservation.

---

### 3.2.10 Used Tire Recycling Program (2004 Annual Report, Part 2.14)

#### Introduction

In 2004, we reviewed the Used Tire Recycling Program at the Multi-Materials Stewardship Board (MMSB). This Program was implemented by MMSB in April 2002 on Government's direction. The Used Tire Recycling Program operates under the authority of the *Waste Management Regulations, 2003* of the *Environment Protection Act*. Under these *Regulations*, used tires are no longer permitted to be disposed of in landfills throughout the Province. The objective of our review was to review compliance with the November 2002 contract for the collection, storage, processing and disposing of used tires, and to determine the status of the Used Tire Recycling Program.

#### Conclusions from our 2004 review

As a result of our review, we concluded the following:

- The Used Tire Recycling Program since its inception in April 2002 could not be considered a success as it had not met its goal of collecting and processing used tires in the Province. For example, collection sites were not established in all areas of the Province, not all tires were collected from retailers and other sites, not all collected tires were processed, and not all processed tires were marketed and sold.
- As at 31 October 2004, there were approximately 1.3 million passenger tire equivalents stored in five locations throughout the Province (including 461,965 in passenger tire equivalents stored and owned by a former MMSB contractor at the contractor's site in Stephenville).

This situation could have resulted in considerable environmental damage if the tires became ignited. While MMSB officials indicated that the tires located at the Placentia storage yard were stored in accordance with guidelines established by the Department of Environment and Conservation and the Fire Commissioner's Office, those stored at Bull Arm and at the former contractor's site at Stephenville were not.

## Update on Prior Years' Report Items

- In November 2002, the MMSB entered into a 5 year used tire recovery contract for the collection, storage, processing and disposing of used tires with an option to renew for a further 3 years. The MMSB became aware of non-compliance issues very early in the contract, and after considering proposals from the contractor to address the deficiencies, both parties agreed to terminate the contract on 7 June 2004 (i.e. 19 months into the contract). The contractor was paid \$1.2 million during the 19 months the contract was in effect.
- As at 7 June 2004 when the MMSB assumed direct responsibility for the Used Tire Recycling Program, there were approximately 1,015,000 passenger tire equivalents stored at Transportation and Works depots, Municipal Waste Disposal Sites, contractor's collection sites, retailers, Bull Arm, and at the contractor's site in Stephenville (stored and owned by the contractor). MMSB indicated that the cost of tire recycling had increased as a result of their assuming direct responsibility for the Program. Between 7 June 2004 and 31 October 2004, MMSB collected over 212,000 used tires (551,000 passenger tire equivalents) from Transportation and Works depots, Municipal Waste Disposal Sites, contractor's collection sites, and retailers throughout the Province and stored these tires in designated storage yards.
- The cost of collecting and storing these approximately 212,000 used tires was \$672,500 or \$3.17 per tire consisting of \$441,200 or \$2.08 per tire in collection costs and \$231,300 or \$1.09 per tire for storage. While the mix of tires was normally split 92% small tires and 8% large tires, MMSB officials indicated that the 212,000 tires collected were comprised of 60% small and 40% large. As a result, the fee that would have been paid to the former contractor to collect these tires would be \$2.70 per tire. While MMSB's collection cost of \$2.08 per tire is less than the \$2.70 that would have been paid to the former contractor, the interim cost of \$1.09 per tire to store the tires means that the overall cost of \$3.17 per tire is greater than the \$2.70.
- In addition to the 1.3 million passenger tire equivalents stored at 31 October 2004, an additional 220,000 (290,400 passenger tire equivalents) in newly generated used tires were expected to be collected from retailers and individuals from 1 November 2004 to 31 March 2005. Although the MMSB had not finalized how it would address processing and disposing of all these tires, it had announced its intention to issue a "call for proposals".

## Update on Prior Years' Report Items

### Update

In November 2006, we contacted the MMSB requesting an update as to the progress on the comments and recommendations included in our 2004 report. The information provided by the MMSB in response to our request is outlined below.

---

### 2004 Recommendation

*The MMSB should develop and implement plans to address all components of the Used Tire Recycling Program.*

### Action Taken

The MMSB indicated that they had developed a three phased approach to putting the Used Tire Recycling Program back on track after Newfoundland Envirotire Shreds Incorporated (NETS) withdrew from its tire collection and processing/recycling contract with MMSB in June 2004.

- In the first stage, MMSB took over all operational aspects of the Program and collected the backlog of used tires that had accumulated in the Province since 2002. MMSB also assumed responsibility for the stockpile of used tires that had been delivered and partially processed at the former processing plant owned by NETS in Stephenville, as well as two separate MMSB managed stockpiles at Bull Arm and Placentia.
- In the second stage, MMSB took a policy decision to separate the ongoing collection of used tires from their actual processing or recycling, and entered into a long-term contract (following a public tender) in February of 2005 for the establishment of permanent infrastructure for the collection of used tires from all tire retailers on the island and southern Labrador. Subsequently, similar arrangements were also executed with contractors in other regions of Labrador. The new tire collection system is meeting all of its objectives.
- The third and final phase of the new plan was to craft a “made in Newfoundland and Labrador” business model for the actual processing and recycling of used tires on a sustainable basis over the long term. A public “call for proposals” was issued to this effect in March of 2005, with two proponents being short-listed from this process.



One of these proponents subsequently withdrew its proposal in November 2005. The other proponent, which planned to establish an innovative technology-based tire recycling venture in the Province, received approval-in-principle for its proposal and was given until 31 March 2006 to raise the necessary private investment capital for its implementation. MMSB subsequently extended this timeframe to 31 October 2006, but announced concurrently that it would proceed to implement a “tire derived aggregate” (TDA) business strategy for the Used Tire Recycling Program if the technology-based venture was not successful in raising its investment capital by that date.

The technology-based venture has been successful in reaching agreements-in-principle with a number of investors that will allow it to proceed to the implementation stage, subject to the details being worked out through the normal commercial due diligence process which is expected to take until approximately 31 December 2006. MMSB indicated that it is continuing to work with the company toward this goal, but is also continuing to develop the full details of its TDA contingency plan in the event the technology-based company is not able to proceed as planned.

---

### 2004 Recommendation

*The MMSB should finalize how it will address processing and disposal of tires currently stored at various storage sites.*

### Action Taken

The MMSB indicated that:

- The stockpile of used tires at Stephenville has been successfully removed and permanently disposed of through a Quebec-based recycling company. This stockpile was not needed to support the business plan of the technology-based venture and the partially processed condition of the material made it unsuitable for use as TDA.
- Used tires stored in Labrador West, Churchill Falls and Happy Valley-Goose Bay have also been disposed of through a number of short term contracts with Quebec-based recyclers for practical and logistical business reasons. A long term contract for their similar disposal will be awarded in the near future.

- The remaining two stockpiles at Bull Arm, Placentia, as well as the ongoing supply of tires generated on an annual basis on the Island and in southern Labrador, will be recycled through either the technology-based venture or through MMSB's TDA business strategy.
- 

### 3.2.11 Water Quality Management (2004 Annual Report, Part 2.15)

---

#### Introduction

In 2004, we reviewed the management of water quality by Government. The objective of our review was to determine whether Government's commitments outlined in the May 2001 report *Source to Tap - Water Supplies in Newfoundland and Labrador*, had been met.

The review did not address areas for which municipalities had primary responsibility - water treatment and water system operation and maintenance.

---

#### Conclusions from our 2004 review

As a result of our review, we concluded that Government had not met all its commitments outlined in its *Source to Tap* report and was not always complying with provincial standards for monitoring drinking water. Specifically:

- *Source protection* - As of October 2003, 256 of the 532 (48%) public water supplies were still not protected. Under the *Water Resources Act*, the Department of Environment and Conservation may designate areas around a public water source as protected.
- *Water Quality Monitoring* - The Department of Environment and Conservation was not conducting Trihalomethanes (THM) and other chemical water quality testing in accordance with the commitment contained in the *Source to Tap* report or in accordance with Provincial standards. The number of communities and public water supplies in the Province known to have THM levels above the maximum acceptable concentration was increasing. In addition, the Department of Government Services was not conducting microbiological water testing in accordance with the *Source to Tap* report commitment or in accordance with Provincial standards. Such testing determines the total coliforms and E. coli in water supplies.

## Update on Prior Years' Report Items

---

- *Water Quality Reporting* - Government had not met commitments made in the *Source to Tap* report regarding reporting of water quality data. These include reporting annually to the House of Assembly, providing drinking water quality data to the public, and reporting annually to the operator of each public water supply system in the Province.
  - *Regulatory inspection and mitigation planning* - The Department of Environment and Conservation was not inspecting water systems under the *Water Resources Act* in accordance with the commitment contained in the *Source to Tap* report. The commitment to conduct these inspections was at least once per year, however, the Department indicated that inspections are conducted only when operational problems are encountered, relating to a proposed upgrade, or in response to infrastructure need assessment.
  - *Operator education and training* - Certification of water system operators was on a voluntary basis with mandatory certification being an area that required further attention.
- 

### Update

In November 2006, we contacted the Department of Environment and Conservation requesting an update as to the progress on the comments and recommendations included in our 2004 report. The information provided by the Department in response to our request is outlined below.

---

### 2004 Recommendation

*Government should continue with efforts to protect the remaining public water supplies in the Province through designating areas around public water sources as protected under the Water Resources Act.*

### Action Taken

The Department of Environment and Conservation indicated that in the 2004-05 fiscal year, one additional surface water supply and 34 groundwater supplies were designated as protected water supply areas. In addition to these, 10 protected water supply areas were amended to protect the entire natural drainage areas and two protected water supplies were amended to refine the delineation of the drainage areas.

---

### **2004 Recommendation**

*Government should conduct THM, other chemical water quality testing and microbiological water quality testing in accordance with the commitment contained in the Source to Tap report and in accordance with provincial standards.*

### **Action Taken**

The Department of Environment and Conservation indicated that for the 2004-05 fiscal year, approximately 3,454 inorganic tap, inorganic source, THM, and HAA samples were scheduled to be collected from public water supplies (this number was based on the required Provincial standard plus additional samples to test for HAA's for which there is no current guideline, but it is an emerging parameter). Of these scheduled samples, 2,472 samples were collected. The discrepancy in sampling numbers is mainly due to the lack of sampling conducted in the western region of Newfoundland and in Labrador due to a vacancy in the Watershed Management Specialist position at the Department's Corner Brook regional office. Other reasons for a sample not being conducted are lack of chlorination and seasonal inaccessibility.

---

### **2004 Recommendation**

*Government should inspect water systems under the Water Resources Act in accordance with the commitment contained in the Source to Tap report.*

### **Action Taken**

The Department of Environment and Conservation indicated that a formal inspection is undertaken if problems are reported or noted. During the past fiscal year, 72 inspections were carried out pertaining to water and sewer related activities. Public groundwater wells and other selected wells were also inspected on a regular basis in order to ensure that these wells were constructed as per requirements of the *Water Resources Act*. Approximately 286 inspections of public groundwater supplies were carried out in the past fiscal year. Approximately 28 inspections were carried out on protected public water supplies to respond to public concerns in reference to development activities, as well to update land use inventory and identify the need for the preparation of watershed management plans.

The Department of Environment and Conservation also indicated that, generally speaking, all water supplies are visited four times per year if they are chlorinating, or at least twice per year otherwise, due to the need to collect chemical water samples. In addition, most communities are visited by the mobile training unit annually. Government Service Center Environmental Health Officers also visit a water supply at least monthly (if the community is not on a boil water advisory). In total, this level of visitation is considered adequate to identify possible concerns, thereby making it unnecessary to conduct further inspections.

---

### **2004 Recommendation**

*Government should further consider the issue of mandatory certification of water system operators.*

### **Action Taken**

The Department of Environment and Conservation indicated that there is currently no requirement for mandatory certification of water system operators. Within the Province, there are 109 municipalities with certified operators. Additionally, there are eight certified operators with Parks Canada (water and wastewater), three with Indian Bands and four with Federal facilities. The Department will continue to encourage and facilitate operator certification as and when appropriate. The Department indicated its emphasis is to deliver appropriate training through seminars, mobile training units and an annual workshop, while gradually working towards certification of operators.

---

## **3.2.12 Inland Fish and Game Licenses (2004 Annual Report, Part 2.37)**

---

### **Introduction**

In 2004 we completed a review of inland fish and game licenses. Our review covered the period April 1996 to March 2004 and included licenses sold through vendor outlets and Government Services Centres. Our review did not include licenses available through the Wildlife Division's big game license draw as they are not sold through vendor outlets or Government Service Centres.

## Update on Prior Years' Report Items

---

Our objective was to determine whether controls existed relating to the administration of inland fish and game licenses and whether license fees due to the Province were properly accounted for and collected from vendors on a timely basis.

---

### Conclusions from our 2004 review

In our 2004 report, we concluded that weaknesses in the control at the Department of Environment and Conservation had existed in the administration of inland fish and game licenses, that license fees due to the Province during the time had not been properly accounted for, and that amounts due from vendors had not been collected on a timely basis.

---

### Update

In November 2006, we contacted the Department of Environment and Conservation requesting an update as to the progress on the comments and recommendations included in our 2004 report. The information provided by the Department in response to our request is outlined below.

---

### 2004 Recommendations

*The Department should ensure that :*

- *policies and procedures are developed, communicated and followed relating to the administration of inland fish and game licenses;*
- *responsibilities and accountabilities for the Government Service Centres are documented;*
- *information is maintained on license activity and accounts receivable from vendors; and*
- *licenses are only issued in accordance with Departmental policy.*

### Action Taken

The Department has indicated that :

- it has hired a Clerk Typist, who is in the process of inputting all relevant data which will allow an electronic access of information required by all parties;

---

## Update on Prior Years' Report Items

---

- with the implementation of the prepayment system, increases in outstanding accounts have been eliminated;
  - requests for refunds are approved and forwarded on a timely basis to the Financial and General Operations Division in the same manner as those processed for Big Game fees; and
  - responsibilities, accountabilities and operational procedures are reviewed, documented and forwarded to the appropriate Divisions and Departments.
- 

### Department of Finance

---

#### 3.2.13 Newfoundland and Labrador Liquor Corporation (2003 Annual Report, Part 2.14)

---

##### Introduction

In 2003, we reviewed the Newfoundland and Labrador Liquor Corporation (the Corporation). The objectives of our review were to:

- review the financial position and operating results of the Corporation;
  - determine whether controls over the purchasing of goods and services were adequate and that such expenditures were made in accordance with the *Public Tender Act* and the Corporation's policies and procedures;
  - determine whether there was adequate monitoring and control of sales agents; and
  - determine whether controls over the selection of agency stores were adequate.
-

### Conclusions from our 2003 review

As a result of our review we concluded the following:

#### **Financial Position and Operating Results**

- The Corporation had a monopoly on the sale of alcohol products in the Province and was in sound financial condition, contributing significant amounts of cash to the Provincial treasury each year.
- There was an issue with the inventory levels maintained by the Corporation. During the five years ended 31 March 2003, the Corporation's inventory turnover rate averaged approximately 2 times per year.

#### **Renovations**

- The Corporation's Board neither approved an overall plan to renovate its Head Office, nor were regular updates provided to the Board on the status of the renovation project.
- The Corporation spent a significant amount of public money on several purchases which could be considered as being excessive.

#### ***Public Tender Act***

- The Corporation did not always comply with the requirements of the *Public Tender Act*.

#### **Marketing**

- The Corporation did not call public proposals for its various marketing campaigns.
- The Corporation could not demonstrate whether the cost of the Box at Mile One Stadium had any positive impact and whether there was an ongoing cost-benefit for the Corporation.
- The Corporation used the services of Provincial and National sales agents as well as sales agents in other provinces. We found that the Corporation did not call for proposals for the provision of these services. Furthermore, there were no signed contracts in place for any of these sales agents that could be used by the Corporation to monitor and control the work of these agents.



### Agency Stores

- The selection process used by the Corporation to select Agency stores was not transparent and was not based on an objective assessment of how each applicant meets qualifying criteria.
- At the time of our review, there were no signed contracts in place for 36 of the 44 agency store files that we reviewed.

### Retail Stores

- The Corporation did not complete market studies or otherwise make use of any defined process to analyze the need for the three new retail stores that were opened during our review.
- Payments made by the Corporation under lease agreements for the three new retail stores were not consistent with the terms contained in the successful tender bids.

### Expenditure Issues

- Expenses claimed by the President and Chief of Operations did not have sufficient documentation to demonstrate that the expenses were claimed for Corporation business.
- Contrary to its travel policy, the Corporation paid for the spouses of the President and the Chair of the Board of Directors to attend a wine show in New York and also paid for various conference registration fees for these spouses as well as the spouse of the Director of Enforcement.
- The Corporation had been using the services of the same engineering firm since the early 1980's to assist in the management of its capital construction and renovation projects. The Corporation has not called for proposals since that time and there were no current terms of reference and no current contract in place.

## Update on Prior Years' Report Items

---

### Board of Directors Expenditures

- Contrary to Government's policy for remuneration for Board members, during the year, liquor or other alcoholic beverages was provided to the Board.
  - Payments to the Chairperson of the Board of Directors for the period 13 May 2000 to 31 March 2003 were not always in accordance with the policies of both the Provincial Government and the Corporation relating to remuneration of board members.
- 

### 2005 Update

In our 2005 annual report, we included an update on the Corporation's progress towards implementing the recommendations contained in our 2003 report. The Corporation indicated that many of our recommendations had been implemented and progress was being made on the remaining recommendations.

---

### Update

In November 2006, we contacted the Corporation requesting an update as to any further progress on the comments and recommendations included in our 2003 report. The information provided by the Corporation in response to our request is outlined below.

---

### 2003 Recommendation

*The Corporation should continue with its efforts to implement its point of sale system to assist in establishing appropriate inventory levels.*

### Action Taken

The Corporation indicated that its Supply Chain Management system went live on 1 April 2006 and that, since that time, their usage and the system's capabilities have continued to improve and it is expected to improve further in the future.

---

### **2003 Recommendation**

*The Corporation should ensure that it has signed contracts in place with all companies providing services to the Corporation. These contracts should outline the roles, responsibilities and accountabilities of these companies.*

### **Action Taken**

The Corporation indicated that its ability to have all service providers under contract continues to be a challenge, particularly as they continue to change some of the service providers. The Corporation further indicated that its long-term service providers are under contract and that they are working to have all service providers under contract as quickly as possible.

---

### **2003 Recommendation**

*The Corporation should ensure the selection process for agency stores is transparent and based on an objective assessment of how each applicant meets qualifying criteria.*

### **Action Taken**

The Corporation indicated that it has established standards in size, layout, signage and specific levels of distribution and that non-acceptance of these criteria removes any applicant from consideration. The Corporation also indicated that all other factors are considered on a weighted basis and the applicant with the best score is recommended to the Board as the new agent. The Corporation indicated this process is transparent and objective while ensuring that it gets an applicant that meets the new level of retail standards.

---

### 3.2.14 Gasoline Tax (2004 Annual Report, Part 2.16)

---

#### Introduction

In 2004 we performed a review of the Gasoline Tax component of the Tax Administration Branch of the Department of Finance. Our objectives were to determine if the Department had adequate systems in place to ensure that all licensees and purchasers were in compliance with the *Gasoline Tax Act* and in particular to determine whether:

- all potential gasoline tax licensees were identified and registered;
  - all licensees had remitted monthly returns and tax amounts on a timely basis;
  - monthly returns were adequately monitored; and
  - audits were conducted and issues arising from audits or monthly reviews were investigated and/or followed up on a timely basis.
- 

#### Conclusions from our 2004 review

As a result of our review, we concluded that there were weaknesses in how the Department of Finance performed its identification, monitoring and audit activities for ensuring compliance with the *Gasoline Tax Act* and *Regulations*.

---

#### Update

In December 2006, we contacted the Department of Finance requesting an update as to the progress on the comments and recommendations included in our 2004 report. The information provided by the Department in response to our request is outlined below.

---

#### 2004 Recommendation

*The Department should review monthly generic returns submitted by wholesalers and follow up on issues on a timely basis.*

### **Action Taken**

The Department indicated that generic returns filed by wholesalers are reviewed and issues are followed-up on a timely basis. Backlogs resulting from position vacancies have now been resolved.

---

### **2004 Recommendation**

*The Department should conduct regular reviews to identify unregistered retailers.*

### **Action Taken**

The Department indicated that it regularly reviews wholesaler accountability returns which are matched to retailer returns. This process is used to identify unregistered retailers. Retailer returns are information returns only, as tax is collected and remitted at the wholesale level. Consequently, non-filing of these returns has been considered a low risk area, and follow-up has not been a high priority. However, as part of its 2007-08 Work Plan, the Tax Administration Division will develop procedures to ensure this issue is appropriately addressed.

---

### **2004 Recommendation**

*The Department should follow up on issues identified in monthly exemption reports.*

### **Action Taken**

The Department indicated that exemption reports are reviewed and any follow-up would be based upon manager's risk assessment.

---

### 2004 Recommendation

*The Department should:*

- *perform more frequent audits on retailers; and*
- *continue with its random vehicle checks and perform more frequent audits on consumers.*

### Action Taken

The Department indicated that:

- the audit coverage level for all clients, whether wholesalers, retailers or consumers is determined based upon risk assessment. This ensures optimal use of departmental resources; and
  - random vehicle checks and consumer audits are a core area of the Tax Audit and Compliance Program.
- 

### 2004 Recommendation

*The Department should document its program objectives and performance indicators, and prepare an annual operational plan.*

### Action Taken

The Department indicated that its Tax Administration Division has set program objectives and performance indicators for the current year, and will be reporting on results achieved. An objective of the coming fiscal year will be to review and update risk assessment procedures.

---

## 3.2.15 Tax Expenditures (2004 Annual Report, Part 2.17)

---

### Introduction

In 2004, we reviewed tax expenditure programs offered by our Province. Tax expenditures can be defined as foregone tax revenues, due to special exemptions, deductions, rate deductions, rebates, credits and deferrals that reduce the amount of tax that would otherwise be payable.

---

## Update on Prior Years' Report Items

---

The objectives of our review were to identify the various tax expenditure programs in place, obtain an estimate of their annual cost, and to examine and assess the processes in place for their approval, monitoring, evaluation and reporting.

---

### Conclusions from our 2004 review

As a result of our review, we concluded the following:

- The Province offers a significant number of tax expenditure programs; however, details of the impact of the various tax expenditure programs were not provided to Members of the House of Assembly as part of the annual budget approval process. We identified \$215.5 million of foregone revenue resulting from these tax expenditure programs.
  - There was no process in place to formally set target objectives for tax expenditure programs which would facilitate the measurement and monitoring of the results of the programs against desired objectives. As a result, no information was provided to the House of Assembly on the effectiveness of these programs.
- 

### Update

In December 2006, we contacted the Department of Finance requesting an update as to the progress on the comments and recommendations included in our 2004 annual report. The information provided by the Department in response to our request is outlined below.

---

### 2004 Recommendation

*The Department of Finance should determine all of the Province's tax expenditure programs, compile information on each of the programs and provide the information for inclusion in the Government's annual budget to the House of Assembly.*

### Action Taken

The Department indicated that it has been reporting tax expenditures in the Estimates document since 2005, in accordance with a recommendation in the 2004 Auditor General Report.

---

### 2004 Recommendation

*The department responsible for a tax expenditure program should establish a process to set target objectives which would facilitate the measurement and monitoring of the results of the programs against the desired objectives. Resulting performance against these objectives should be periodically reported to the House of Assembly.*

### Action Taken

The Department indicated that while each tax expenditure program has a stated purpose, it is difficult for Government to establish specific quantifiable targets or evaluative criteria. Notwithstanding the limitations, the Department indicated that it:

- Regularly works with the Department of Innovation, Trade and Rural Development (INTRD) to assess the progress of certain tax expenditures. The Direct Equity Tax Credit is an example.
- Reviews data from its administrative files to assess the capital raising achievements of the Direct Equity Tax Credit program.
- In conjunction with INTRD, has frequent dialogue with the sole registrant under this Province's Labour-Sponsored Venture Capital Tax Credit program and monitors the program's success.
- Works with the Newfoundland and Labrador Film Development Corporation in the review of film credit applications and as part of that process observes the impacts of the credit upon the film industry.

Legislation for some tax expenditures requires programs to be extended or renewed from time to time. The Department of Finance takes those opportunities to evaluate the programs in conjunction with the relevant department.

As well, the Department's 2007 workplan will include a review of practices used by the Federal government and the other provinces in order to identify and implement more effective ways of monitoring tax expenditures.

---



### Department of Fisheries and Aquaculture

---

#### 3.2.16 Aquaculture Program (2004 Annual Report, Part 2.18)

---

##### Introduction

In 2004, we reviewed the Aquaculture Program. The objective of our review was to determine whether the Department of Fisheries and Aquaculture was:

- ensuring that the aquaculture industry was developing in accordance with the objectives stated in the Newfoundland and Labrador Aquaculture Strategic Plan;
  - complying with the license and inspection requirements stated in the *Aquaculture Act* and *Regulations* and established policies and procedures; and
  - addressing deficiencies identified in our 1998 report.
- 

##### Conclusions from our 2004 review

As a result of our review, we concluded the following:

- The Province was not doing a good job supporting the development of the aquaculture industry and there was no successful development of the industry since 1999.
- The Province had little involvement in ensuring the Aquaculture Strategic Plan was implemented on an overall basis. Recommendations to deal with industry debt load, the lack of capital and the high cost of production were not fully addressed.
- The majority of companies holding commercial aquaculture licenses were contributing little to aquaculture production.
- The Department was issuing new aquaculture licenses without always ensuring they had sufficient information to determine whether applicants had the financial capability to carry out aquaculture operations.
- Aquaculture sites were operating without valid licenses because the Department was not ensuring the licenses were being renewed on a timely basis.

---

## Update on Prior Years' Report Items

---

- Aquaculture sites were being renewed each year without ensuring the sites were in compliance with the *Aquaculture Act and Regulations* and when it was not clear whether the aquaculture sites were being properly utilized.
- The Department was not performing regular inspections to determine whether aquaculture sites were complying with the *Aquaculture Act and Regulations*. The results of inspections that were performed were not adequately documented in the inspection report.
- There were two aquaculture sites with improper shore fastened moorings which were a potential public safety hazard. The Department did not have the authority under the *Aquaculture Act* to remove them.

---

### Update

In November 2006, we contacted the Department of Fisheries and Aquaculture requesting an update as to the progress on the comments and recommendations included in our 2004 report. The information provided by the Department in response to our request is outlined below.

---

### 2004 Recommendation

*The Department should comply with the Aquaculture Act and Regulations.*

### Action Taken

The Department indicated that it continues to make improvements to both the licensing and inspection aspects of the overall aquaculture program. These include upgrading licensing data management tools in conjunction with the Office of the Chief Information Officer, revision of the licensing system to improve renewal processes, dedication of additional resources to the aquaculture inspection mandate and an overall review of its policy framework. This will ensure the proper positioning of the Department to provide overall industry management which will increasingly become the focus of the Department as the industry matures. These efforts are intended to assist the Department in complying fully with legislated requirements.

---

### **2004 Recommendation**

*The Department should establish Regulations related to aquaculture development.*

### **Action Taken**

The Department indicated it has not introduced regulations specifically addressing aquaculture development. The purpose of the current *Aquaculture Act* and *Regulations* is to govern aquaculture and to promote the prudent and orderly development of an aquaculture industry. The current growth and maturation phase of the industry requires a significant level of flexibility to ensure that Government's management scheme is responsive to the needs of the industry and the Province. To accommodate these needs, the overall management scheme is being detailed in management plans and other policy tools to allow revision when and if necessary in a timely and responsive manner. As part of the ongoing review process associated with these policy tools, entrenching them in regulation will be considered whenever it is deemed to be the appropriate time to do so.

---

### **2004 Recommendation**

*The Department should ensure that activities required to implement recommendations in the strategic plan are properly planned and carried out.*

### **Action Taken**

The Department indicated that since 2003 the Aquaculture Branch has been actively promoting the Province as an attractive location and climate for aquaculture investment. The Branch consulted with the Department of Innovation, Trade and Rural Development to develop an investment package that outlined the strengths and opportunities of the Provincial aquaculture industry including the ample water resources, strong culture performance and the support of a proactive Government with an aggressive development mandate. The investment package "Cultivating Your Investment" included a trade show booth, investment portfolio and related material.

Since the launch of the investment prospecting campaign, there have been three new investors from Norway, New Brunswick and Newfoundland and Labrador that have established operations in Newfoundland and Labrador. As a result of this investment, production is projected to increase substantially in 2007 and 2008.

---

### **2004 Recommendation**

*The Department should ensure that, in accordance with Departmental Policy, new aquaculture licenses are only issued when applicants clearly demonstrate they have the required technical and financial capability to sustain aquaculture operations.*

### **Action Taken**

The Department indicated that technical and financial capabilities continue to be key considerations of the licensing process. Much of the growth and expansion of the industry is being led by established operators and by the entry of successful business entities that are well established in other jurisdictions or sectors. This provides the licensing process with a solid indication of the capabilities of these companies when considering new aquaculture license applications. It is recognized, however, that demonstration of technical and financial capability does not guarantee the sustainability of the aquaculture operation. Sustainability is impacted by factors beyond the direct control of licensees.

---

### **2004 Recommendation**

*The Department should ensure aquaculture licenses are renewed by 31 December each year.*

### **Action Taken**

The Department indicated that the *Aquaculture Regulations* were amended in 2005 to permit the Province to change the license expiry date to match the end of Government's fiscal year, 31 March, which allows for submission of required documentation, review of information and license renewal in the January-March period, which should allow license renewal to occur prior to expiry of the existing license. Work will also continue to ensure that necessary renewal documentation is being submitted at the appropriate times by licensees.

---

### **2004 Recommendation**

*The Department should ensure that aquaculture sites are being utilized and developed in accordance with its site utilization policy before licenses are renewed each year.*

### **Action Taken**

The Department indicated that all aquaculture license renewal applications are reviewed from the perspective of the site utilization policy. Where the licensee cannot provide a reasonable explanation why utilization is not in accordance with accepted development plans, the license will not be renewed.

---

### **2004 Recommendation**

*The Department should inspect aquaculture sites to determine whether sites are in compliance with the Aquaculture Act and Regulations before licenses are renewed each year.*

### **Action Taken**

The Department indicated that all aquaculture license renewal applications are reviewed by the Aquaculture Inspection Coordinator to identify compliance issues prior to license renewal. Where hazards have been identified at any site, the aquaculture license will not be renewed if the hazard has not been addressed. In many cases, inspections identify deficiencies at sites that, while corrective action is necessary, are not considered hazardous. In these situations, the Department will continue to work with the licensee to achieve compliance, but non-renewal of that license is not considered an appropriate regulatory response where the deficiency is minor in nature.

---

### **2004 Recommendation**

*The Department should ensure aquaculture sites are inspected at least annually, as required by policy, to ensure compliance with the Aquaculture Act and Regulations and Department policy.*

### **Action Taken**

The Department indicated that in 2005 a total of 161 out of 174 active sites were inspected. While improvements in inspection coverage were made, the Department's review of the 2005 inspection program did identify that complete coverage had not been achieved. As a result, the Department has decided to identify a second position to be dedicated to aquaculture inspection activities starting in 2007 and to purchase the necessary resources (boat, truck, trailer) for this position.

---

### **2004 Recommendation**

*The Department should revise reports used by inspectors to clearly indicate whether aquaculture sites are complying with the requirements of the Aquaculture Act and Regulations, and Departmental policy.*

### **Action Taken**

The Department indicated that inspection requirements mandated by the *Aquaculture Act* are not completed by a single inspection/inspector. Inspections to address fish health are carried out by the aquaculture veterinarian and inspections to address fish escape prevention are carried out by technical field staff. Other inspection activities that are more general in nature are carried out by a dedicated aquaculture inspector.

The Department also indicated that it is in the process of ensuring that each of the inspection related program areas provides documentation to the primary aquaculture registry so that a complete inspection record is maintained. The level of detail and format for this documentation will vary and may not provide detailed individual inspection related information, particularly in relation to fish health matters where veterinary confidentiality standards have to be maintained.

---

### **2004 Recommendation**

*Government should consider the lack of remedy available to the Department in the Aquaculture Act and Regulations regarding the use of unauthorized shore fastened moorings at aquaculture sites.*

### Action Taken

The *Aquaculture Act* was amended to provide the Minister of Fisheries and Aquaculture with the authority to remove shore fastened mooring systems that pose a safety hazard to the public and/or aquaculture site users.

---

## Department of Government Services

---

### 3.2.17 Food Premises Inspections and Licensing (2003 Annual Report, Part 2.16)

---

#### Introduction

In 2003, we reviewed the food premises inspections and licensing program at the Department of Government Services. The objectives of our review were to determine whether the Department of Health and Community Services and the Government Services Center (GSC) were complying with inspection and licensing requirements and whether deficiencies identified in our 1998 report were addressed.

---

#### Conclusions from our 2003 review

As a result of our review, we concluded that many of the significant weaknesses identified in the food premises inspection and licensing program during our 1998 review had not been corrected. In particular:

- The GSC could not demonstrate whether food premises were in compliance with all areas of the *Food Premises Regulations*.
- There were food premises in the GSC database which were operating without a valid license at the time of our review.
- Food premises were not being inspected at the required frequency.
- The Department of Health and Community Services was not being provided with the required reports on program activities by the GSC.
- Policy and procedures were deficient in several areas.

---

## Update on Prior Years' Report Items

---

- The database was neither current nor accurate.
  - There was non-compliance with policy and procedures as follows: inspections were not properly documented; licenses were issued when there was no evidence that critical health hazards were corrected; food premises operators were not provided with time frames to correct identified health hazards; follow up inspections were not always completed to determine whether previously identified health hazards were corrected; and inspections were not carried out in a manner that was representative of year round operations.
  - The GSC did not adequately monitor food premises inspection and licensing activity.
- 

### 2005 Update

In our 2005 annual report, we included an update on the Department's progress towards implementing the recommendations contained in our 2003 report. At the time, the Department indicated that: licenses were being issued with staggered expiry dates so that inspections could be more evenly spread out over twelve months; guidelines were provided to inspectors for the completion of food premises inspection reports; inspection reports were revised to indicate that critical health hazards must be corrected immediately upon inspection; further improvements were necessary to resolve complications with data entry and the reporting system (AMANDA) because inspection and license data entry was not timely and reports from the AMANDA system were not accurate; the accuracy of data in annual reports for the years 2003-04 and 2004-05 was questionable; and the Office of the Chief Information Officer (OCIO) was conducting a review of the AMANDA system to identify and resolve data management and information reporting difficulties.

---

### Update

In November 2006, we contacted the Department of Government Services requesting an update as to any further progress on the comments and recommendations included in our 2003 report. The information provided by the Department in response to our request is outlined below.

---



### **2003 Recommendation**

*The Government Services Center should comply with the Food Premises Regulations.*

### **Action Taken**

The Department indicated that food premises are inspected using a risk-based approach and assessed as Low, Moderate or High Risk which, in turn, determines the target frequency of inspection. As of the end of October 2006, inspections are at 91% of what is required up to that point in the fiscal year (3,658 completed of a total 4,034 required). The Department indicated that this was accomplished in spite of several continuing vacancies in some areas of the province, due to difficulties in recruitment and retention in rural areas. Given on-going recruitment efforts and barring any unforeseen significant events (e.g. communicable or enteric disease outbreaks; extraordinary demand work), the Department anticipates that the program will achieve close to 100% of its requirements in the current fiscal year.

---

### **2003 Recommendation**

*The Department should comply with the Department of Health and Community Services policy and procedures.*

### **Action Taken**

The Department indicated that the Office of the Chief Information Officer is currently reviewing the AMANDA system to determine whether it can be upgraded and altered to accommodate required improvements to the food premises and other inspection databases and management systems. Subject to final recommendation and budgetary approvals, it is anticipated that most of this work will be undertaken in the 2006-07 fiscal year.

In the interim, the Department indicated that GSC personnel have been operating with the knowledge that the AMANDA system has limitations and that information is to be generated more regularly to prevent any misinterpretation of the data reported. Vigilance in ensuring that data is routinely and accurately entered is being maintained by GSC management.

---

### 2003 Recommendation

*The Government Services Center should comply with the requirements of the Memorandum of Understanding.*

### Action Taken

The Department indicated that the 2005-06 Environmental Health Program Annual Report is being drafted and will be provided to the Department of Health and Community Services when finalized. The Department noted that the Department of Health and Community Services has already received the substantive performance information through an on-going sharing of information from the Government Services database.

---

### 3.2.18 Elevating Devices and Other Inspections (2004 Annual Report, Part 2.19)

---

#### Introduction

In 2004 we performed a review at the Department of Government Services which covered the period of 1 January 2002 to 31 December 2003 and focused on the inspection activity required under the *Public Safety Act*, the *Amusement Rides and Elevating Devices Regulations* and the *Boiler Pressure Vessel and Compressed Gas Regulations*.

Our objectives were to determine :

- whether the Department was complying with the inspection frequency requirements under the *Amusement Rides and Elevating Devices Regulations* and the *Boiler, Pressure Vessel and Compressed Gas Regulations*;
  - whether the Department's databases for the administration of *Amusement Rides and Elevating Devices Regulations* and the *Boiler, Pressure Vessel and Compressed Gas Regulations* were accurate; and
  - whether the deficiencies noted by inspectors during the inspections of devices and vessels were being monitored.
-

## Update on Prior Years' Report Items

---

### Conclusions from our 2004 review

In our 2004 review, we concluded that the Department of Government Services did not conduct all of the inspection activities necessary to ensure the safe operation of elevating devices, amusement rides, boilers and pressure vessels in the Province. We recommended that the Department should comply with the *Public Safety Act and Regulations*, and ensure that the database for amusement rides, elevating devices, boilers and pressure systems are kept current.

---

### Update

In November 2006, we contacted the Department of Government Services requesting an update as to the progress on the comments and recommendations included in our 2004 report. The information provided by the Department in response to our request is outlined below.

---

### 2004 Recommendations

*The Department should:*

- *comply with the Public Safety Act and Regulations; and*
- *ensure that the databases for amusement rides, elevating devices, boilers and pressure systems are kept current.*

### Action Taken

The Department indicated that :

- The redesign of the database, with a comprehensive legend, is complete. The database now has three distinct parts, one for elevating devices, one for ski lifts and one for amusement rides, enabling them to focus more precisely on each area. The database has been expanded to keep in view the past two years of inspection activities in addition to the current year's inspection activities. New fields have been added to monitor the status of directives. The Division recognizes the limitations of using Excel spreadsheets to create its databases. Consequently, the Division has been working with the OCIO to develop a more powerful program. It is anticipated the new SQL Program will be ready for implementation in the new year.

---

## Update on Prior Years' Report Items

---

- A complete new set of inspection forms has been developed, based upon the ASME A 17.2 Elevator Code and CSA Z267 Safety Code for Amusement Rides. The old Field Inspection and Field Directives forms have been combined into one clear, concise form. Each activity area now has its own Inspection Checklist.
- For 2005, 855 out of 894 (95.6%) elevating device inspections were completed. Of the remaining 39, 16 devices were inspected late due to the strike at IOCC, 5 were no longer in use, and 18 were not inspected as required. Of those 18, 11 were inspected within 90 days, 5 within 120 days, and one within 150 days of their due dates. One, however, was not inspected until 12 months after it was due for inspection. In the case of ski-lifts, 18 out of 21 in the Province were placed in service in 2005 and all 18 were inspected as required. For amusement rides, 37 of 44 rides were placed in service in 2005 and all 37 were inspected as required. For boilers and pressure vessels, inspection completion was again in the 90% range. No changes are planned for this program area, however, the new SQL Program will cover boilers and pressure vessels as well as elevating devices and amusement rides.

In summary, the Department indicated it is confident that it is meeting its fundamental objective of protecting public safety through its legislation and programming.

---

### 3.2.19 School Bus Safety Program (2004 Annual Report, Part 2.21)

---

#### Introduction

In 2004, we reviewed the Provincial school bus safety program administered through the Motor Registration Division (MRD) of the Department of Government Services. The objectives of our review were to determine whether:

- there were established policies, procedures, standards and guidelines in place to adequately reflect school bus safety processes;
- practices in place were adequate in addressing program objectives; and

## Update on Prior Years' Report Items

---

- whether management receives information necessary for planning, decision making, control and ensuring compliance with legislative responsibilities.
- 

### Conclusions from our 2004 review

As a result of our review, we concluded the following:

- There was a high incidence of serious defects identified during school bus inspections performed by MRD staff. Some of the defects identified resulted in school buses being taken out of service. The significance of this was increased given the fact that MRD did not routinely perform surprise inspections on school buses. Instead, operators were given advance notice of upcoming inspections. Therefore, it was likely that there were school buses on the Province's highways that did not meet the required safety standards.
  - Brake meters used by MRD to assess braking efficiency on school buses were not being recalibrated every two years as recommended by the manufacturer to ensure they were accurate. As a result, school buses may have been determined by MRD inspectors to have safe brakes, when they did not.
  - Not all school bus inspections were completed by an authorized inspection station in that the Official Inspection Stations were not licensed at the time the inspections were completed.
  - The MRD did not perform the required annual inspection for all Official Inspection Stations operated by school bus contractors.
- 

### Update

In November 2006, we contacted the Department of Government Services requesting an update as to the progress on the comments and recommendations included in our 2004 annual report. The information provided by the Department in response to our request is outlined below.

---

### **2004 Recommendation**

*The Department of Government Services should ensure that brake meters used by the MRD to assess braking efficiency on school buses be recalibrated at least every two years as recommended by the manufacturer.*

### **Action Taken**

The Department indicated that all brake meters have been recalibrated in accordance with the manufacturer's recommendations and are on a regular schedule of recalibration once every two years.

---

### **2004 Recommendation**

*The Department of Government Services should address the issue of school bus inspections being performed by unlicensed inspection stations.*

### **Action Taken**

The Department indicated that applications for license renewal are sent out in September of each year. Of the approximately 800 Official Inspection Stations (OIS) licensed for 2005-06, 180 failed to file their renewal by the November 30, 2006 deadline. This indicates either an omission, or a choice by the owner to cease operation. Under legislation, an OIS is not permitted to conduct vehicle inspections without a valid license. MRD conducts inspections periodically to confirm this. The Department indicated that approximately 25 stations have not paid their renewal fee and suspension notices are to be issued to those stations shortly.

The Department indicated that once the enforcement officer goes out with the suspension notice to remove the license, the owner will usually pay the fee at that time. The renewal inspection is then conducted. MRD is currently examining alternatives for renewal of these licenses, including financial penalties for failure to renew by the deadline, automatic suspension letter generation, and the potential for on-line renewal to facilitate the process.

---

### 2004 Recommendation

*The Department of Government Services should perform inspections of Official Inspection Stations as required.*

### Action Taken

The Department indicated that as of November 2006, 54 Official Inspection Stations had not been inspected within the previous 12 month period, representing approximately 6.8% of the total (a 93.2% compliance rate). Of these, only 11 are certified to conduct inspections on school buses. Managers have been directed to place a focus on completing these inspections as soon as possible. All are expected to be completed by the end of January 2007.

The Department indicated that among the challenges associated with attaining 100% compliance were other program demands on the driver examiners and enforcement officers who perform these inspections. In addition, both of these groups experienced staff shortages (vacancies) during the period.

The Department indicated that MRD is currently conducting a workload analysis to determine its ability to meet the demands of the annual OIS inspection process. MRD is also reviewing the need for an annual inspection regime from a public safety perspective and whether a more comprehensive facility inspection/license renewal regime based on a bi-annual schedule might be a more viable alternative. This review will include examination of the penalties and fines for non-compliance.

---

### 3.2.20 Special Permits and In-Transit Permits (2004 Annual Report, Part 2.22)

---

#### Introduction

In 2004, we reviewed the issuing of Special Permits and In-Transit Permits by the Motor Registration Division (MRD) of the Department of Government Services. The objective of our review was to determine the policies, procedures, standards and guidelines governing the issuance of these permits.

---

---

## Update on Prior Years' Report Items

---

### Conclusions from our 2004 review

As a result of our review, we concluded the following:

- In 2003, there were 165 Special Permits issued to allow mobile cranes and construction equipment, which exceeded the defined limits for weight and/or dimensions, to travel on the Province's roads. These vehicles are not required to have an annual inspection performed and therefore may be unsafe for travel on the Province's roads.
- Highway Enforcement Officers do not complete a mechanical inspection of mobile cranes and construction equipment when these vehicles are stopped on the Province's roads from time to time.
- In-Transit Permits issued for unlicensed and/or unregistered vehicles may contribute to the existence of unsafe vehicles on the Province's roads when the In-Transit vehicle is driven from one place to another for repairs because no inspection of the vehicle is required.
- Certain mobile crane operators may be obtaining In-Transit Permits because the cumulative cost of these permits is cheaper than the annual licensing fees.

---

### Update

In November 2006, we contacted the Department of Government Services requesting an update as to the progress on the comments and recommendations included in our 2004 report. The information provided by the Department in response to our request is outlined below.

---

#### 2004 Recommendation

*The Department of Government Services should continue with efforts to review and address issues surrounding Special and In-Transit permits.*

#### Action Taken

The Department indicated that following a review of policies and reference to Cabinet regarding policy options for these permits, a formal procedure was enacted to eliminate the in-transit process for commercial vehicle transport. That process involved clerical staff issuing permits from MRD offices province-wide. The current process is a single trip



permit requiring application to MRD and review by the Registrar. The application requires a valid vehicle safety inspection, insurance certificate, and review by the National Safety Code engineer for safety compliance. These permits are now issued centrally from the MRD headquarters at Mount Pearl.

The Department indicated it has been further directed by Cabinet to develop a plan with respect to mobile cranes and other heavy construction equipment. This is currently under development and will be submitted to Cabinet in 2007. The plan may require legislative or other regulatory changes to implement.

---

## Department of Health and Community Services

---

### 3.2.21 Child Care Services (2003 Annual Report, Part 2.18)

---

#### Introduction

In 2003 we performed a review at the Department of Health and Community Services which covered the period of June 1999 to March 2003 to determine whether there were adequate systems and processes in place to:

- identify all providers of child care services in the Province required to be licensed under the *Child Care Services Act and Regulations*;
  - ensure that applicants approved for child care licenses meet the application requirements of the *Child Care Services Act and Regulations*;
  - monitor child care facilities to determine whether they are operated in accordance with the *Child Care Services Act and Regulations*; and
  - ensure that annual fire, life and safety, and environmental health inspections are conducted for all child care facilities.
-

## Update on Prior Years' Report Items

### Conclusions from our 2003 review

In our 2003 review we concluded the following:

- Although the Department of Health and Community Services had overall responsibility for the child care services program, it had not adequately monitored and controlled the delivery of the program.
- Neither the St. John's Regional Health and Community Services Board nor the Western Regional Health and Community Services Board took the initiative to actively investigate whether there were any unlicensed child care service providers in their region.
- Although licences were being issued to child care facilities, there were many instances where there was no evidence on file to indicate whether all licensing requirements outlined in the *Child Care Services Act* and *Regulations* were met.
- The *Child Care Services Act* was not complied with in that the two family child care agencies associated with the St. John's and Western regional boards were not licensed as required when they commenced operations in 2000.
- Not all child care facilities were being monitored in accordance with the policies established by the Department of Health and Community Services.
- As a result of the monitoring that was performed, violation orders were issued for matters such as: children left unattended; a child was administered medication, not as prescribed, resulting in an overdose; food was not handled as required; and the ratio of children to staff was exceeded.
- Violation orders were not always issued when warranted. For example, there were 4 centres which had a combined total of 31 health and safety violations for which no violation orders were issued as of March 2003.
- The required annual fire, life and safety, and environmental health inspections were not always being conducted by the then Department of Government Services and Lands.

---

## Update on Prior Years' Report Items

---

### 2005 Update

On 1 April 2005, the St. John's Regional Health and Community Services Board and the Western Regional Health and Community Services Board were integrated into the Eastern Regional Integrated Health Authority and the Western Regional Integrated Health Authority respectively.

In our 2005 annual report, we included an update on the Department's progress towards implementing the recommendations contained in our 2003 report. At the time, the Department indicated that:

- it was continuing to work collaboratively with the Regional Integrated Health Authorities (RIHAs) by holding monthly conference calls and quarterly meetings;
- the RIHAs had been requested to submit annual reports regarding their Child Care Service Program to the Department;
- a policy had been developed requiring the investigation of all complaints where there is sufficient information provided by the referral;
- it had circulated brochures to the RIHAs which had been placed in public areas regarding child care services; and
- further material was being prepared to provide information to the public on licensed and unlicensed child care.

---

### Update

In November 2006, we contacted the Department of Health and Community Services requesting an update as to any further progress on the comments and recommendations included in our 2003 report. The information provided by the Department in response to our request is outlined below.

---

### 2003 Recommendations

*The Department of Health and Community Services should improve its processes for monitoring and controlling the delivery of the child care services program and ensure that the requirements of the Child Care Services Act and Regulations are being complied with in identifying, licensing, monitoring and inspecting child care facilities in the Province.*

### Action Taken

The Department indicated that:

- Meetings between Provincial Child Care Services officials and Regional Directors of Child Care Services continue to be held quarterly.
- With a few exceptions over the summer, monthly telephone calls between the Provincial and Regional Directors of Child Care Services continue to be held.
- All complaints of alleged illegal child care services are required to be investigated by RIHA staff if there is sufficient information available to warrant such an investigation.
- New informational materials for parents, families, licensees, staff of child care centres and the general public have been developed. Since June 2005, five new brochures have been developed for a variety of audiences such as “Quality Child Care - A Guide for Parents” and “A Career in Child Care” for potential child care providers. These materials have been circulated to the RIHA staff for distribution and display. Where appropriate, distribution is done by other means such as the Provincial child care organizations.
- The provision of Annual Reports by the RIHAs staff to the Province has been discussed with the Regional Directors of Child Care Services. It has been agreed that the regions will provide information such as wait lists, numbers of Violation Orders issued and the number of Varied Licenses issued. The format for this report is being developed.
- Several new initiatives have been funded in this fiscal year that are intended to support the various stakeholders in child care services. They are:
  - Support to allow children with special needs to be fully included in the regular program of a child care service. The supports include training opportunities for staff and providers, equipment grants and staffing enhancements for centres and regulated homes where needed.

---

## Update on Prior Years' Report Items

---

- Changes to the Child Care Services Subsidy Program to allow more children access to regulated child care services and increases in the fees paid to licensees.
  - Financial incentives to recruit and retain qualified staff for centres.
  - Funding to establish several new child care centres in rural areas where there is need, interest and the capacity of the community organizations to develop/sustain the service.
  - Support for cultural/linguistic minorities in areas such as resources and translation.
  - In consultation with Government Services Inspectors, training of Environmental Health Inspectors in safety issues related to outdoor play.
- 

### 3.2.22 Western Regional Health and Community Services Board (2003 Annual Report, Part 2.20)

---

#### Introduction

In 2003, we performed a review of the Western Regional Health and Community Services Board. The objective of this review was to assess the Board's financial position and determine whether home support expenditures were adequately monitored, controlled and complied with policies and procedures

The Western Regional Health and Community Services Board is now part of the Western Regional Integrated Health Authority (the Authority).

---

#### Conclusions from our 2003 review

We concluded that the budget process was inadequate, the financial information system was inadequate for controlling home support costs, home support program expenditures were not approved, assessed accurately, documented and in accordance with policy, and policies and procedures were not adequately documented or periodically updated.

---

## Update on Prior Years' Report Items

---

### 2005 Update

In our 2005 annual report, we included an update on the Authority's progress on the comments and recommendations contained in our 2003 report. In 2005, as part of its response, the Authority indicated that the Department of Health and Community Services had restarted the planning and development process for a new integrated and comprehensive client pay system. Furthermore, the Authority indicated efforts were being made to identify the funds necessary to staff a compliance auditor position.

---

### Update

In November 2006, we contacted the Western Regional Integrated Health Authority (the Authority) requesting an update as to any further progress made in implementing the comprehensive client pay system and in establishing a compliance auditor position. The information provided by the Authority in response to our request is outlined below.

---

### 2003 Recommendation

*The Board should consider changes to its financial management systems so that all home support costs are available for monitoring and control purposes.*

### Action Taken

The Authority indicated that the Department of Health and Community Services, in partnership with the four Regional Health Authorities, is continuing with the design and development of a Client Pay Module as part of the Client Referral and Management System. The Authority stated the current schedule has the new system being piloted in the Central region in January 2007 with a roll out to all regions during the 2007-08 fiscal year.

---

### 2003 Recommendation

*The Board should establish an internal review system to ensure home support program expenditures are approved, assessed accurately, documented and monitored.*

### Authority's Response

The Authority stated that through its budgeting process, it is endeavoring to identify resources to staff a compliance auditor position. The Authority stated that the fiscal situation in 2006-07 did not permit this position to be put in place; however, it is currently pursuing it as part of the 2007-08 budget process.

---

### 3.2.23 Gambling Rehabilitation Services (2004 Annual Report, Part 2.23)

---

#### Introduction

In 2004, we reviewed gambling rehabilitation services at the Department of Health and Community Services. The objectives of our review were to determine:

- what revenues were received by the Province from gambling and how this was used to fund the services offered by the Province for problem gambling issues;
  - whether the extent of problem gambling in the Province was known; and
  - what services were available for the education, prevention and treatment of problem gambling.
- 

#### Conclusions from our 2004 review

As a result of our review, we concluded the following:

- In 2004 the Province received \$108 million from the Atlantic Lottery Corporation (ALC), an increase of \$38.8 million or 56% from the \$69.2 million received in 1995. Of this amount, \$76 million was from Video Lottery Terminals (VLT), an increase of \$44 million or 137% from the \$32 million received in 1995.

- From a Statistics Canada report issued in December 2003, approximately one in four gamblers, whose playing includes VLTs, were at risk to become or were already problem gamblers. The report went on to state that “... *VLTs are the 'crack cocaine' of gambling.*” Furthermore, correspondence from the health boards providing addiction services in the Province indicated that the vast majority of individuals treated for problem gambling were addicted to VLTs.
- There were a number of significant issues related to Government's involvement with the identification and treatment of gambling addiction. For example:
  - Newfoundland and Labrador was the only Province in Canada that had not conducted its own prevalence study to determine the extent of the gambling problem. Statistics Canada indicated that in 2002, 330,000 individuals in Newfoundland and Labrador over the age of 15 participated in and spent money on some form of gambling activity. Statistics Canada further indicated that 6.3% (or some 20,800 Newfoundlanders and Labradorians) of these individuals were at risk or were already problem gamblers. Newfoundland and Labrador had the highest percentage in Atlantic Canada of individuals who gamble and who were at risk or were already problem gamblers.
  - The health boards, charged with administering the gambling addiction program, were unable to provide complete or comparable statistics on the numbers of clients with gambling addictions who were referred, treated and waitlisted. Furthermore, the boards did not have systems in place to capture information on the costs of providing each of the various addiction programs and the amount of time spent by staff on each program. As a result, information required by the Department and the boards to adequately plan and monitor addiction programs was not readily available.
  - The health boards indicated that they did not have sufficient resources to meet the demand for gambling addiction rehabilitation and as a result several boards had waitlists. This was significant in that it was indicated by one board that “*Research indicates this population group [individuals requiring gambling rehabilitation] does not usually follow through when they are waitlisted.*”



---

## Update on Prior Years' Report Items

---

- There was no centralized resource at the Department of Health and Community Services to assist the health boards in developing standard programs for gambling rehabilitation including a strategy for the delivery of a Provincial education and awareness program.
- Although Government was required to match a 1% VLT fee received from retailers, officials at the Department of Health and Community Services were not aware of this requirement. As a result, the Department did not budget for this matching amount. The Department of Health and Community Services provided approximately \$4.1 million annually for all addiction programs (alcohol, drugs, tobacco and gambling); however, it could not readily demonstrate that the amount available for gambling addiction programs was in fact used for this purpose.

---

### Update

In November 2006, we contacted the Department of Health and Community Services requesting an update as to the progress on the comments and recommendations included in our 2004 report. The information provided by the Department in response to our request is outlined below.

---

#### **2004 Recommendation**

*The Department should undertake a prevalence study to determine the full extent of problem gambling in the Province.*

#### **Action Taken**

The Department indicated that a Provincial gambling prevalence study was completed and publicly released in October 2005. The study identified that there are approximately 13,000 people in Newfoundland and Labrador at moderate risk or who are already a problem gambler.

---

### 2004 Recommendation

*The Department should ensure that there is adequate information available to adequately plan and monitor the addiction programs. The information should include statistics on the number of clients with gambling addictions who were referred, treated and waitlisted as well as information on the costs of providing each of the various addiction programs and the amount of time spent by staff on each program.*

### Action Taken

The Department indicated that the Regional Health Authorities commenced the manual gathering of gambling statistics in October 2006. The statistics include the number of clients referred, waitlisted and treated for gambling problems. The manual system does not allow for the tracking of time spent by addictions counselors specific to gambling clients. Work is ongoing to develop an automated statistical reporting system.

---

### 2004 Recommendation

*The Department should ensure that there are standard programs for gambling rehabilitation and a strategy for the delivery of a Provincial education and awareness program.*

### Action Taken

The Department indicated that:

- In April 2005, a full-time Addictions Consultant was appointed. This individual is working with the four health regions to ensure consistent and quality addiction services are available for persons suffering from drug, alcohol and gambling problems. Gambling rehabilitation is one component of the addiction programs.
- The Department participates in a Provincial Substance Use and Gambling Prevention and Education Committee, chaired by the Department of Education. The Committee is developing substance use and gambling curriculum for grades K-12. Substance use and gambling curriculum information has been added to a mandatory Level I course for high school students.

---

## Update on Prior Years' Report Items

---

- Since 2005, five new gambling addictions counselors have been recruited at the Regional Health Authorities, a 1-800 Provincial gambling line has been set up and a Provincial training session on gambling addictions for all addictions counselors across the Province has been held.
- During 2006-07, two public awareness programs on addictions have been launched. In November 2005, a campaign was aimed at encouraging youth to get up on the facts about drug and alcohol abuse, and problem gambling. The campaign directs youth to a website, [www.getuponit.ca](http://www.getuponit.ca), which provides facts on the negative impacts of addiction and how it can get in the way of a person's dreams.
- In May 2006, an advertising campaign aimed at educating the public about the risks associated with problem gambling, particularly related to VLT use, was launched. The campaign, titled "are you playing the game or is the game playing you" consists of four, 30-second television commercials and a 1-800 problem gambling helpline number where those with problem gambling, or their loved ones, can go to get help. Eastern Health reported an increase in calls when this campaign was run.

---

### 2004 Recommendation

*The Department should ensure that the 1% Video Lottery Terminal retailer fee is matched and included in a separate budget which can be monitored to ensure that the funds are spent for the purpose intended.*

### Action Taken

The Department indicated that they use a global budget methodology and that the chart of accounts for financial reporting is based on this approach. There is no capacity to monitor and report on funds spent for gambling addictions as distinct from other addictions services offered by the Regional Health Authorities.

---

### 3.2.24 Grenfell Regional Health Services Board (2004 Annual Report, Part 2.24)

---

#### Introduction

In 2004, we performed a review of the Grenfell Regional Health Services Board. The objectives of our review were to assess the Board's financial position and operating results, and determine whether controls and systems for the acquisition of goods and services were adequate and complied with Board policy and the *Public Tender Act* and *Regulations*.

---

#### Conclusions from our 2004 review

As a result of our review, we concluded the Board did not:

- Adequately address its financial position and operating results over the past five years. The Board reported an annual operating deficit in four of the past five years, and as at 31 March 2003 reported an accumulated deficit of \$12.1 million and a bank indebtedness of \$1.1 million.
- Maintain adequate documentation or signed contracts to support certain business activities.
- Ensure all amounts owing were recovered or spent money contrary to Government and Board policy.
- Comply with the *Public Tender Act* and *Regulations*.

On 1 April 2005, the Board was integrated into the Labrador-Grenfell Regional Integrated Health Authority.

---

#### Update

In November 2006, we contacted the Labrador-Grenfell Regional Integrated Health Authority (the Authority) requesting an update as to progress on the comments and recommendations included in our 2004 report. The information provided by the Authority in response to our request is outlined below.

---

### **2004 Recommendation**

*The Board should develop a plan to address its operating deficit and bank indebtedness.*

### **Action Taken**

The Authority indicated that it continues to work with the Department of Health and Community Services with respect to its overall financial position. The Authority stated that as at 31 March 2005, the former Grenfell Regional Health Services Board reported a surplus of \$689,400 in its operating fund, prior to non-shareable items, due to savings from the public service strike in 2004.

The Authority stated that during 2005-06 the Authority incurred a deficit of \$3.1 million, prior to non-shareable items, as the cost to provide services increased.

---

### **2004 Recommendation**

*The Board should ensure that adequate financial analysis is documented to support its decisions and that signed contracts are on file to support business activities.*

### **Action Taken**

The Authority indicated that they are making decisions that are evidence based decisions.

The Authority stated that the Schedivac service, the medical air transportation service in question, is no longer used and was terminated 1 April 2005.

---

### **2004 Recommendation**

*The Board should ensure that all amounts owing are recovered and that all amounts paid are in accordance with internal and Government policies.*

## Update on Prior Years' Report Items

---

### Action Taken

The Authority indicated they are making every effort to recover any amounts owed to it.

The Authority indicated that the Employee Computer Purchase Plan is no longer being offered to employees.

---

### 2004 Recommendation

*The Board should comply with the requirements of the Public Tender Act and Regulations.*

### Action Taken

The Authority indicated that all tendering is now performed by the regional materials management office at Happy Valley-Goose Bay. The Authority indicated that they are following the *Public Tender Act and Regulations*.

---

## Department of Human Resources, Labour and Employment

---

### 3.2.25 Newfoundland and Labrador Housing Corporation Non-Profit Rental Social Housing Units (2003 Annual Report, Part 2.32)

---

#### Introduction

In 2003 we completed a review of the Non-Profit Rental Social Housing Program of the Newfoundland and Labrador Housing Corporation (the Corporation). The objectives of the review were to assess whether the Corporation:

- monitors the condition of the non-profit rental social housing portfolio;
- determines and carries out an appropriate maintenance program;

## Update on Prior Years' Report Items

---

- has addressed the long-term capital needs for the non-profit rental social housing portfolio, including required expenditures, planned expenditures, funding sources for the planned expenditures and capital works priorities; and
  - has addressed the current demand for housing.
- 

### Conclusions from our 2003 review

In our 2003 review we concluded that the:

- Corporation's non-profit rental social housing units are in need of significant repairs;
  - Corporation does not have a preventative maintenance program in place to identify and correct deficiencies before they become larger problems; and
  - Corporation does not have a complete long-term plan currently in place which addresses the nature, amount, timing and funding source of future capital expenditures.
- 

### 2005 Update

In our 2005 annual report, we included an update on the Corporation's progress towards implementing the recommendations contained in the 2003 report. At the time, the Corporation indicated that:

- As of the end of October 2005, condition reports had been completed on 68% of the portfolio and efforts were continuing on dedicating more resources towards this process. The Corporation's objective was to have 85% completed by March 2007 and 100% by March 2008. The development of a long-term capital plan continued to be a challenge due to financial constraints related to funding. The Corporation continues to work on this area and take advantage of all funding opportunities which arise.
- An internal review of preventative maintenance was completed in January 2005 which revealed that a significant amount of preventative work was being done. Regional offices had been instructed to record and track all preventative maintenance expenditures in the Corporate Financial Systems. The Corporation's goal was to implement a formalized preventative maintenance program by March 2007 under the direction of the newly formed Facilities Management Group.

- As part of the operational planning cycles for 2004-05 and 2005-06, the Corporation emphasized the reduction of over housing in the non-profit rental social housing portfolio, with focus on opportunities arising from the normal movement of tenants into and out of the portfolio. In September 2005, the Corporation began a major pilot retrofit on a vacant building to convert 8 three bedroom units into 8 energy efficient 2 bedroom units.
- 

### Update

In November 2006, we contacted the Corporation requesting an update as to any further progress on the comments and recommendations included in our 2003 report. The information provided by the Corporation in response to our request is outlined below.

---

### 2003 Recommendation

*The Corporation should complete detailed reports on all of its non-profit rental social housing units to develop a long-term capital plan which outlines the nature, amount, timing and source of funding.*

### Action Taken

The Corporation indicated that as of November 2006 condition reports had been prepared for 79 percent of the portfolio. Of these there were approximately 8 percent that had some partial information that required follow-up inspections. The Corporation has devoted more resources towards this process and are confident that the target of 85 percent of the portfolio will be completed by March 2007 and 100 percent completed by March 2008.

The Corporation indicated that the financial restraints related to funding a long-term capital plan continue to be a challenge. As part of the Corporation's Strategic Plan, it has undertaken a long-term fiscal plan which will address declining revenue and changing demand. This plan will be presented to the Provincial government by March 2008.

---



### **2003 Recommendation**

*The Corporation should implement a preventative maintenance program.*

### **Action Taken**

The Corporation indicated that it continues to record and track preventative maintenance expenditures in the Corporate Financial System. However, in October of this year the Corporation awarded a contract to replace all of the Corporate Information systems (IT), a part of which will include a preventative maintenance tool. The implementation of the new systems will not be completed until October 2007 and, therefore, the full implementation of formalized preventative maintenance has to be delayed until then.

The Corporation has also created a temporary position of Provincial Maintenance Co-ordinator whose role is to provide Head Office with direction to the Regional Offices for all maintenance activity which will include development of a policy for preventative maintenance in conjunction with the Facilities Management Group and the IT Implementation Team.

---

### **2003 Recommendation**

*The Corporation should develop a long-term housing accommodation plan to address the effect of demographic changes.*

### **Action Taken**

The Corporation indicated that it agrees that under ideal conditions, unit and family size should be a compatible match. The Corporation, however, also feels that this match should be made in a fiscally responsible manner. To that end, as a part of its operational planning cycle for 2004-05 and 2005-06, the Corporation has emphasized the reduction of over housing in the non-profit rental social housing portfolio. The initiative focuses on opportunities arising from the normal movement of tenants into and out of the portfolio. Between 1 March 2005 and 30 November 2006, this initiative has resulted in the transfer of 50 “empty nesters” from larger public housing units to one bedroom rent supplement units. The majority of these transfers took place within the Avalon region. In spite of this achievement, the Corporation's waiting list still indicates very little demand in all parts of the Province for units with more than two bedrooms of which there are many.

It was also indicated that in the past, the costs associated with the redesign and upgrades of larger housing units to make them into smaller units have prevented the Corporation from undertaking any such projects. In September 2005 the Corporation began a major retrofit on a vacant building located on Froude Avenue in St. John's. The project will result in eight (8) three-bedroom units being redeveloped into eight (8) energy efficient two-bedroom units, four of which will be accessible. Planning, design and site work has been completed. Complete interior and exterior renovations are expected to be completed by June, 2007. The creation of the two-bedroom dwellings, as well as the fully accessible ground floor units will address two needs indicated by current applicant and tenant demographics. Funding for this conversion is being provided under the Canada-Newfoundland Affordable Housing Agreement and the Corporation's 2005-06 modernization and improvement budget.

A proposal call recently took place to complete a concept plan for the redevelopment of two (2) large public housing projects located on Cashin Avenue and Empire Avenue in St. John's.

On 25 September 2006 the Federal government confirmed the availability of \$20.8M to the Province of Newfoundland and Labrador, \$12.6M Non-Aboriginal and \$8.2M Off-Reserve Aboriginal. The agreement covers the period from 31 March 2006 to 31 March 2009. The provinces and territories have the flexibility to use this money to fund affordable housing projects they identify as a need. This one-time Federal investment is intended to build new affordable rental housing units and to increase the supply of transitional and supportive housing. It is not intended to support ongoing operational funding for existing social housing nor is it to replace Provincial investment under the affordable housing program.

---

### **3.2.26 Income Support/Case Management Information System (2004 Annual Report, Part 2.27)**

---

#### **Introduction**

In 2004, we reviewed the development of a comprehensive management information system to address income support and case management in the Department of Human Resources, Labour and Employment. The objective of our review was to determine what progress the Department had made in developing such a system.

---

## Update on Prior Years' Report Items

---

### Conclusions from our 2004 review

As a result of our review, we concluded the following:

- Since 1988, there were two attempts to complete the development of a comprehensive management information system for the income support program and case management system. At the time of our review in 2004, no such system was in place.
  - The last attempt to develop a new system commenced in October 1999 at an estimated cost of \$4.3 million. As at November 2003, thirteen months after the original estimated completion date, only one of the expected seven modules was fully functional across the Province. Furthermore, the project development cost was expected to increase to \$7.9 million.
  - As at November 2003, the estimated annual cost to operate the new system was \$1.15 million, an increase of \$450,000 over the original estimate.
- 

### Update

In November 2006, we contacted the Department of Human Resources, Labour and Employment requesting an update as to the progress on the comments and recommendations included in our 2004 report. The information provided by the Department in response to our request is outlined below.

---

### 2004 Recommendation

*The Department of Human Resources, Labour and Employment should expedite the completion of a comprehensive management information system to address income support and case management requirements.*

### Action Taken

The Department indicated that as of 3 April 2006, the Client Automated Payment System (CAPS) Release 1 was implemented in all 26 offices of the Department.

---

### 2004 Recommendation

*The Department of Human Resources, Labour and Employment should identify and monitor all project costs.*

### Action Taken

The Department indicated that the Office of the Chief Information Officer (OCIO) is now responsible for tracking costs associated with system development projects. All project costs were identified for CAPS Release 1 and were monitored on a regular basis throughout the project which was completed on 3 April 2006.

The Department also indicated that all costs associated with information technology are now the responsibility of the OCIO and are included in the budgetary appropriation for the OCIO. As a result, system operating costs are no longer allocated by individual department.

---

## Department of Innovation, Trade and Rural Development

---

### 3.2.27 EDGE Program (2004 Annual Report, Part 2.28)

---

#### Introduction

In 2004, we performed a review of the EDGE program. The objectives of our review were to assess whether:

- EDGE corporations were properly assessed, approved and monitored; and
  - program objectives, performance indicators and measurable targets had been established, and actual results were measured and reported against these targets.
-

---

## Update on Prior Years' Report Items

---

### Conclusions from our 2004 review

As a result of our review, we concluded the Department of Innovation, Trade and Rural Development (the Department) was not determining whether its program objectives were being met or whether the EDGE program was a success. Specifically, applications were not being approved on a timely basis, specific targets for the program had not been established by the Department, the management information system used by the Department was not being used for monitoring and periodic reporting, EDGE corporations were not always providing annual reports to the Minister as required, information on all incentives provided were not captured by the Department, and incentives provided to some EDGE corporations were not adequately supported.

---

### Update

In November 2006, we contacted the Department requesting an update as to progress on the comments and recommendations included in our 2004 report. The information provided by the Department in response to our request is outlined below.

---

#### 2004 Recommendation

*The Department should ensure applications are approved on a timely basis.*

#### Action Taken

The Department indicated that it makes every effort to review requests on a timely basis to facilitate the approval process in as short a timeframe as possible.

---

#### 2004 Recommendation

*The Department should ensure EDGE corporations meet and maintain program criteria.*

### **Action Taken**

The Department indicated that no benefits are made available to EDGE corporations until such time that they have demonstrated to the Department's satisfaction that they have met Program criteria. This would require the provision of the requisite information necessary to make this evaluation including independently prepared audited financial statements and auditor certification.

---

### **2004 Recommendation**

*The Department should ensure the EDGE management information system is used in the monitoring and reporting of the EDGE program.*

### **Action Taken**

The Department indicated that they have not developed a computerized management information system to replace the former computerized system for EDGE; however, they may pursue this option in the future. The Department indicated that they use software to maintain significant information on spreadsheets and all pertinent information can be obtained through the computer system or manually.

---

### **2004 Recommendation**

*The Department should ensure EDGE corporations submit annual reports as required and are notified on a timely basis of non-compliance.*

### **Action Taken**

The Department indicated that they endeavor to collect annual reports as required and follow-up reminders are forwarded to EDGE corporations that are tardy. The Department indicated that no benefits relating to EDGE are provided to EDGE corporations that do not comply with reporting requirements to the satisfaction of the Department.

---

### **2004 Recommendation**

*The Department should ensure all incentives provided to EDGE corporations from all sources are supported and recorded in the Department's management information system.*

### **Action Taken**

The Department indicated that they endeavor to collect this information and maintains close liaison with the Department of Finance. The Department stated that commencing in 2005, the Department also collected information from participating municipalities relating to tax benefits provided to EDGE corporations.

---

### **2004 Recommendation**

*The Department should ensure performance indicators are clear, measurable performance targets for these indicators are established, actual results are assessed against these targets, and results are reported to the House of Assembly.*

### **Action Taken**

The Department indicated that they have had preliminary discussions with the Department of Finance regarding the selection of appropriate indicators, establishment of appropriate targets and measurement and assessment of same. However, the Department indicated that a consensus on how to proceed had not been arrived at, in large part given that most EDGE corporations are start-up ventures and that the requisite data is sometimes difficult to collect and may not be meaningful for measurement and evaluation purposes. The Department indicated that they intend to try and resolve the matter in the new year.

---

### 3.2.28 Mining Company Investment (2004 Annual Report, Part 2.29)

---

#### Introduction

In 2004, we reviewed the Department of Innovation, Trade and Rural Development's investment in a mining company. The objectives of our review were to:

- review the process used by the Department in providing an equity investment of \$400,000 in the mining company;
  - determine what processes the Department had in place to monitor its investment; and
  - review any prior involvement the Department may have had with the shareholders of this company and whether the Department considered the results of this involvement in the evaluation of the request for funding.
- 

#### Conclusions from our 2004 review

As a result of our review, we concluded the following:

- contrary to the conclusion of the Department and the recommendation of Treasury Board Secretariat, the Department was directed by the Premier's Office to provide an investment in the mining company;
  - the Department's review of the \$400,000 equity investment was not as thorough as is normally performed on funding requests; and
  - the Province wrote off a \$2.8 million investment in a previous mining company owned by the same major shareholder who created the new mining company.
- 

#### Update

In November 2006, we contacted the Department of Innovation, Trade and Rural Development requesting an update as to the progress on the comments and recommendations included in our 2004 report. The information provided by the Department in response to our request is outlined below.

---



### 2004 Recommendation

*The Department should ensure that all requests for funding are subject to the Department's normal review process and that all analytical procedures normally performed on a request of this type are completed prior to any funding being provided.*

### Action Taken

The Department still maintains that it conducted a full review of the Company's proposal in consultation with the Company's accountant and other funding partners who participated in providing funding concurrent with the Province. The Department indicated it receives numerous requests outside existing programs on an ongoing basis and that these requests are subject to a full review in consultation with other Government departments, as applicable. Where funding assistance is recommended, the request is usually considered by Cabinet and any approvals are documented by a Minute of Council.

The Department indicated that its officials recently made a site visit to the mining company and found it remains in operation and that it is currently in the process of hiring additional staff.

---

### 3.2.29 xwave Contracts (2004 Annual Report, Part 2.30)

---

#### Introduction

In 2004, we reviewed the Amended and Restated Service Level Agreement (SLA) and the Amended and Restated Industrial Benefits Agreement (IBA) between Government and xwave. The SLA outlines Government's commitments to xwave for the purchase of information technology (IT) services. The IBA outlines commitments made by xwave relating to targets for new IT business to be brought to the Province, new job creation, and subcontracting of Government and non-Government work to other information technology providers in the Province. The Office of the Chief Information Officer (OCIO) has been given responsibility for Government's obligations under the SLA, while the Department of Innovation, Trade and Rural Development is responsible for Government's obligations under the IBA and also for monitoring xwave's compliance with the IBA.

The objectives of our review were to:

- determine whether the parties complied with the agreements;
  - review the process Government had in place to monitor compliance with the Industrial Benefits Agreement; and
  - determine whether Government had identified performance indicators (other than those included in the Industrial Benefits Agreement) which would indicate whether the objectives of the privatization (e.g. stimulation of the local IT industry) had been met.
- 

### **Conclusions from our 2004 review**

As a result of our review, we concluded the following:

- Although xwave did not meet its obligation to contract out \$2,000,000 in work to local IT businesses for 2002, Government did not charge any liquidated damages as allowed under the IBA.
- xwave did not meet its obligation to create 55 new jobs by 31 March 2004, and indicated that it would not meet its overall employment commitments by 2007.

Instead of imposing liquidated damages allowed under the IBA, Government negotiated a settlement for a single lump sum payment of \$2.4 million which represented the liquidated damages resulting from xwave's employment shortfalls and discharged xwave from its employment creation commitments.

- Government was not monitoring the IT sector to determine progress towards its original goal of stimulating growth in innovative technologies and information industries in the Province by privatizing Newfoundland and Labrador Computer Services Limited (NLCS) in 1994.
-

---

## Update on Prior Years' Report Items

---

### Update

In November 2006, we contacted the Department of Innovation, Trade and Rural Development to determine whether Government had established an IT investment fund from the proceeds of the liquidated damages received from xwave as was indicated in their response to our 2004 report. We also enquired as to whether the Department has established performance indicators and is monitoring growth in the IT sector. The information provided by the Department in response to our request is outlined below.

---

### Action Taken

The Department indicated that the OCIO was allocated \$1.53 million of the \$2.4 million settlement for projects that may be contracted directly by Government to local IT businesses. The Department indicated that the OCIO currently has a number of systems development projects underway in 2006-07 as a result of this funding. These projects include the Ferry Ticketing System for the Department of Transportation and Works, the Vital Statistics System for the Department of Government Services and the Courts E-Filing System.

The Department indicated that it was allocated \$900,000 for general industry development. The Department has been working with the industry association, NATI, on several projects. The Department indicated that NATI is also developing an industry strategy, which should be completed early in the new year. Initiatives identified in that report will be funded from the fund.

The Department also indicated that in 2005-06 it commissioned a study to establish a baseline for key indicators for the ICT sector. That study was completed and highlighted a statistical reporting anomaly. Companies that have their head office outside of the Province do not show in statistical reports for the Province. A consultant was retained for 2006-07 to try and find a method within Statistics Canada or the Federal Department of Finance to capture local data. The report is nearly complete. The report will then form the baseline by which the Department will be able to measure growth in the sector.

---

### Department of Justice

---

#### 3.2.30 Office of the Commissioner of Petroleum Products Pricing (2003 Annual Report, Part 2.17)

---

##### Introduction

In 2003, we reviewed the Office of the Commissioner of Petroleum Products Pricing (the Commissioner). The objective of our review was to assess whether necessary systems and procedures were in place for the Commissioner to establish geographic pricing zones and to regulate maximum pricing for petroleum products at the wholesale and retail levels throughout the Province.

---

##### Conclusions from our 2003 review

As a result of our review we concluded the following:

- The Commissioner did not comply with the requirements of the *Petroleum Products Regulations* in establishing geographic pricing zones and setting maximum prices in that adequate information was not obtained on **historical** prices for petroleum products charged to retailers and consumers throughout the Province and on the **historical** margins between fuel costs and these prices.

As a result of not obtaining this information, the Commissioner could not consider, as required by the *Regulations*, those factors and costs that may have explained the differences between **historical** prices and between **historical** margins in establishing geographic pricing zones and maximum prices.

- In 1 instance, the maximum wholesale and retail prices for petroleum products set by the Commissioner was incorrectly calculated.
- The Commissioner was not adequately monitoring compliance with the *Petroleum Products Act* and *Regulations*. In particular, required contact information had not been provided by all wholesalers and retailers, periodic reports had not been requested from wholesalers and retailers, and no inspections of wholesalers and retailers had been conducted.

---

## Update on Prior Years' Report Items

---

As a result, the Commissioner did not determine whether wholesalers and retailers were charging more than the established maximum price and did not obtain information on the factors which were influencing the costs of supplying petroleum products throughout the Province.

Subsequent to our 2003 review, the operations of the Commissioner were integrated with the operations of the Board of Commissioners of Public Utilities.

---

### 2005 Update

In our 2005 annual report, we included an update on the Board's progress towards implementing the recommendations contained in our 2003 report. At the time, the Board indicated that it had initiated an operational review which would involve a complete assessment of the regulatory processes and pricing used by the Board's Petroleum Pricing Office (PPO), an examination of the existing price adjustment methodologies, and regulatory monitoring and reporting. The Board also indicated that the administrative and financial control of the former Commissioner had been consolidated with the Board, resulting in elimination of duplication, improved controls and substantive cost reductions.

---

### Update

In November 2006, we contacted the Board of Commissioners of Public Utilities requesting an update as to any further progress on the comments and recommendations included in our 2003 report. The information provided by the Board in response to our request is outlined below.

---

### 2003 Recommendations

*The Commissioner should obtain the information required by the Petroleum Products Regulations before changing zone boundaries and establishing maximum wholesale and retail prices.*

*The Commissioner should carry out enforcement and monitoring activities as provided for in the Petroleum Products Act and Regulations.*

### Action Taken

The Board indicated that adjustments to the base prices of home heating fuel were implemented in November 2005 to allow for rising operating costs associated with the delivery of home heating fuels since regulation began in 2001. The Board also indicated that the implementation of recommendations arising from a study into storage, distribution and transportation costs for petroleum products in each of the Province's 14 pricing zones occurred in August 2006. The implementation of these recommendations will assist in ensuring a secure and continuous fuel supply network to consumers in all regions of the Province.

In addition, the Board indicated that changes to the pricing methodology were implemented as of 23 November 2006. The Board anticipates this system will result in a more predictable, transparent and streamlined price-setting process that is fair to both consumers and industry stakeholders. The changes include more frequent scheduled price adjustments with shorter notice periods. It is expected that this will result in maximum prices that are better aligned with price movements on international markets and reduce the number of required interruptions between scheduled price changes. The timing of scheduled and any interim adjustments are known and the notification period is more timely and efficient.

The Board also indicated that it is committed to finalizing its operational review by examining outstanding issues raised by stakeholders as part of the consultation process and any adverse matters arising from changes implemented as a result of the review. The Board indicated that it expects to complete the final phase of the operational review by Spring 2007.

---

### 3.2.31 Board of Commissioners of Public Utilities (2004 Annual Report, Part 2.31)

---

#### Introduction

In 2004, we reviewed the Board of Commissioners of Public Utilities. Our objectives were to review the Board's management practices and control systems; the financial position and operating results of the Board; and determine whether controls and systems for the acquisition of goods and services are adequate and comply with Board policies and the *Public Tender Act and Regulations*.

---

### Conclusions from our 2004 review

As a result of our review, we concluded the following:

In order to strengthen and enhance the public perception of independence and impartiality of the Board, we recommended that accountability to the House of Assembly be strengthened. In particular, there should be a legislative provision which requires that the Board must prepare an annual report and provide it directly to the Speaker of House of Assembly for tabling. The legislative provision should also clearly outline the information required by Members of the House of Assembly to hold the Board accountable for its activities and should provide for a reasonable review of the Board's performance.

The consumer advocates did not prepare any form of annual report for the House of Assembly outlining details of their expenses and the work performed for the expenses incurred. These costs, which totaled \$500,000 per year in each of the three years under review, are ultimately passed on to the people of the Province.

The Board had not updated the Strategic Plan it developed in 1998 to reflect changes since that time. Furthermore, the Board did not prepare an annual operational plan to focus its activities towards achieving its strategic goals and objectives.

The Board's assessment revenues were exceeding its expenses resulting in a significant accumulated surplus of \$1.2 million as at 31 March 2004. Although the *Act* has a provision which allows the Board to reduce future assessments and eliminate any surpluses, the Board has decided not to take this action. As a result, consumers in the Province have paid for this surplus through the rates the utility and insurance companies charge.

The Board contravened the *Public Tender Act* and the *Public Utilities Act*, and its travel and entertainment expenditures were not consistent with Government's policies. For example:

- The Board did not always call public tenders or obtain three quotes or otherwise establish a fair and reasonable price for all purchases as required under the *Public Tender Act*.
- The Board was paying a former commissioner an annual pension of \$24,000 without the approval of the Lieutenant-Governor in Council as required under the *Public Utilities Act*.
- Contrary to the *Public Utilities Act*, a commissioner was appointed to the Board even though the commissioner was 70 years of age before being sworn in as a Commissioner.

## Update on Prior Years' Report Items

---

- The Board had no authority for a payment of \$10,000 to a former employee as settlement of a proposed court case relating to an issue with an early retirement.
  - Contrary to Government's policy, the Board paid credit card fees for two staff, travel claims were not always properly documented and approved for payment, and there were expenditures relating to staff functions.
- 

### Update

In November 2006, we contacted the Board of Commissioners of Public Utilities requesting an update as to the progress on the comments and recommendations included in our 2004 report. The information provided by the Board in response to our request is outlined below.

---

#### **2004 Recommendation**

*Government should consider strengthening the Board's accountability to the House of Assembly by creating a legislative provision which requires that the Board must prepare an annual report and provide it directly to the Speaker of the House of Assembly.*

#### **Action Taken**

As indicated by the Board, section 18 of *The Public Utilities Act, Chapter P-47, RSNL 1990*, states: "The board may publish an annual report regarding its proceedings." Since its establishment in 1949, in accordance with its governing legislation reflected in the *Public Utilities Act*, each and every year the Board has prepared an annual report and submitted it to Government through the responsible Minister. This report incorporates all activities of the Board and is normally tabled by the responsible Minister in the House of Assembly.

In addition, Section 56(1) of the *Automobile Insurance Act, Chapter A-22, RSNL 1990*, states "the board shall forward to the minister by May 1 in each year an annual report on the operation of the board under this Act for the preceding fiscal year." Section 56(2) of the Act requires the responsible minister to lay the report before the House of Assembly within a prescribed timeframe. Since assuming responsibility for rate regulation of automobile insurance in 1977, each year the Board has prepared and submitted a separate annual report concerning its automobile insurance regulation in compliance with this *Act*.



The Board noted that the new *Transparency and Accountability Act* requires the Board to prepare an annual report based on criteria prescribed in the *Act*. This *Act* also requires all relevant public bodies to submit their annual reports(s) to the responsible Minister who is then charged with making the report(s) public by presenting it to the House of Assembly. There is, however, currently no legislative provision for providing annual reports of the Board directly to the Speaker of the House of Assembly.

---

### **2004 Recommendation**

*Government should consider strengthening the Board's accountability to the House of Assembly through legislation that clearly outlines the information required by Members of the House of Assembly to hold the Board accountable for its activities and should provide for a reasonable review of the Board's performance.*

### **Action Taken**

The Board indicated that accountability and reporting is the prerogative of Government as evidenced through legislative action. Except for the consideration of the new *Transparency and Accountability Act*, there have been no legislative changes in Board accountability since the 2004 Report of the Auditor General. In the 2004 Report the Board detailed its response to the proposition raised by the Auditor General regarding making the Board directly accountable to the House of Assembly. At the time the Board indicated it would proceed to formalize its future reporting and accountability requirements in accordance with its existing legislation and the applicable criteria under the new *Transparency and Accountability Act*.

---

### **2004 Recommendation**

*The consumer advocates should be required to prepare a report for tabling in the House of Assembly in order for the House of Assembly to be fully informed of rate regulation activities in the Province, hold the consumer advocates accountable for their costs and activities, and provide for a reasonable review of the consumer advocates' performance.*

### Action Taken

The Board indicated that the consumer advocate is appointed by Government under specified terms and conditions to represent consumers of the Province in particular matters before the Board involving regulated entities. These terms and conditions generally stipulate that the Board pay the costs of the consumer advocate's intervention based on the budget submitted by the consumer advocate and approved by Government. The Board pays these costs upon receipt of detailed invoices from the consumer advocate in relation to the budget approved.

The Board also indicated that, as noted in its previous response to the Auditor General's 2004 Report, the consumer advocate is, and appropriately continues to be, an independent arms-length party participating as an intervenor in matters before the Board. Any decision to change the financial accountability and reporting of this position to the House of Assembly is not an area over which the Board has jurisdiction. This issue is best addressed by Government in relation to their appointment mandating the specific role of the consumer advocate. The Board will write to advise Government of the Auditor General's continuing interest in this consideration.

---

### 2004 Recommendation

*The Board should update its strategic plan and prepare an annual operational plan to focus its activities towards achieving its goals and objectives.*

### Action Taken

The Board indicated that while the *Transparency and Accountability Act* requires the Board to annually submit an activity plan in accordance with its Category 3 designation, the *Act* does not demand compilation of full-fledged strategic and operating plans. The Category 3 designation, however, does contain certain strategic elements as part of its planning criteria. While regulatory oversight is a component of the Board's responsibility over which it has control, a key aspect of the Board's role is to respond and manage its operations in respect of either applications from stakeholders or mandated direction from Government over which it has little or no control regarding timing, content or demands on Board resources. Formal strategic planning, goal setting and measured outcomes in a typical business planning environment is not conducive to the regulatory operations of the Board. Indeed the ultimate accountability

regarding the Board's performance is that decisions of the Board may be appealed to the Supreme Court of the Province. These limitations affecting the Board in the area of formalized strategic planning are acknowledged in its categorization under the *Transparency and Accountability Act* where the Board is required to submit a yearly activity plan and follow-up report. The Board will fulfill these reporting obligations under the *Act*, and will incorporate the elements of strategic / operational planning as specified.

---

### **2004 Recommendation**

*The Board should include performance information and the total cost of rate regulation in its annual report to the House of Assembly.*

### **Action Taken**

The Board indicated that it has formalized its reporting and accountability requirements in accordance with its legislated mandate under the *Public Utilities Act* and the applicable criteria under the new *Transparency and Accountability Act*. The Board noted its reporting requirements have been assigned relative to criteria for a Category 3 organization as outlined in the *Act*. The Board is required in its 2007-08 reporting to subscribe to these specific criteria in respect of submitting an activity plan and follow-up annual report as prescribed in the *Act*. In the meantime, the Board will transition to these requirements while continuing to use its own comprehensive annual reporting guidelines.

The Board indicated that this annual report, reflecting all Board activities, is presently prepared and submitted to the House of Assembly through the Minister of Justice and includes a list of achievements, a summary of activities, a review of challenges and audited financial statements, including the full cost of regulation. This annual report is comparable and in some instances exceeds the reporting of other similarly mandated regulatory bodies in Canada. Because this particular annual report incorporates all activities regulated by the Board, the annual report respecting the operations of the Board required under the *Automobile Insurance Act* has traditionally contained a more technical/statistical focus. The flexibility to streamline and consolidate the Board's reporting requirements into a single inclusive and comprehensive annual report is currently being examined in relation to the new *Transparency and Accountability Act*.

The Board also indicated that it has expanded the financial information contained in its annual report to include budgeted costs and accumulated hearing costs hence reflecting the total costs of its regulatory activities.

---

### **2004 Recommendation**

*The Board should comply with the Public Tender Act and the Public Utilities Act.*

### **Action Taken**

The Board indicated that it has examined its existing purchasing and tendering practices in relation to the *Public Tender Act* and has implemented appropriate measures as determined.

---

### **2004 Recommendation**

*The Board should comply with Government's travel and entertainment policies.*

### **Action Taken**

The Board indicated that it has examined its existing administrative practices in relation to Government's travel and entertainment policies and has implemented appropriate measures as determined.

---

### **2004 Recommendation**

*The Board should address the issue of its significant annual and accumulated surpluses.*

### **Action Taken**

The Board indicated that, in accordance with its policy, unappropriated surplus has been used to reduce assessments of the Board upon its regulated industries. In 2005-06 and 2006-07, \$300,206 and \$906,477 respectively of the Board's unappropriated surplus was applied to reduce assessments to the electrical utilities and the petroleum products industry in each year and also included automobile insurance companies in the

second year. In addition, due to savings realized in 2004-05 arising from integration of the former PPPC with the Board, the petroleum products industry's fourth quarter assessment of \$204,680 was waived. The current unappropriated surplus of the Board is estimated at \$100,000.

---

### 3.2.32 Fines Receivable (2004 Annual Report, Part 2.32)

---

#### Introduction

In 2004 we completed a review of fines receivable recorded in the Ticket Management System (TMS) database operated by the Department of Justice. The objectives of our review were to review the age of the receivables, and the Department's collection and monitoring activity.

---

#### Conclusions from our 2004 review

In our 2004 review, we concluded that collection efforts at the Department of Justice relating to fines receivable required improvement. The fines receivable balance had increased in each of the prior five years and at 31 March 2004 had reached \$23.4 million, 80% of which was considered uncollectible.

---

#### Update

In November 2006, we contacted the Department of Justice requesting an update as to the progress on the comments and recommendations included in our 2004 report. The information provided by the Department in response to our request is outlined below.

---

#### 2004 Recommendation

*The Department of Justice should improve its collection efforts by maximizing the use of available collection options.*

#### Action Taken

The Department indicated:

- Incremental filing of debtors was completed in June 2005 and since February 2006, when the filing process was fully automated, monthly filing of debtors owing over \$499 was commenced.

## Update on Prior Years' Report Items

---

- Collection action on approximately 8,600 judgments totaling \$16 million and the monitoring of at least 1,000 payment arrangements and judicial extensions is currently being done by three collection officers. Despite collection staff turnover, it is estimated that each collections officer generates approximately \$40,000 per month from collection activity.

Recommendations have been made to Executive Council to address issues of public safety and to help improve collection of delinquent fines by a committee formed to review repeat offenders and delinquent fine payers.

- As accounts are worked, write-offs are identified and submitted on a regular basis for write-off approval. Approximately \$2 million in receivables have been given write-off approval.
- Monthly filing of debtors owing over \$499 was commenced in February 2006.
- Fines and penalties in the database without a name identifying the debtor are mainly less than \$20 and continue to be a low priority.
- Reliance continues to be placed on collection of low dollar fines through the assessment of a late payment penalty if the fine is not paid in full within 60 days of conviction date, through providing numerous payment options and through payment on driver license and vehicle permit renewal.
- If a debtor enters into an agreement or is given an extension to pay by a judge, etc., and the account is not already filed at Supreme Court, the current practice is not to file the account at Supreme Court, but to identify it for monitoring compliance by collections staff.

With respect to debtors living outside the Province, participation in the Electronic Inter-jurisdictional Set-Off Program with the Canada Revenue Agency has been approved and full operation is anticipated early in the 2007-08 fiscal year. This will assist in the collection of fines owed by debtors who are no longer residents of the Province and/or working outside the Province.

---

### 3.2.33 Newfoundland and Labrador Legal Aid Commission (2004 Annual Report, Part 2.33)

---

#### Introduction

In 2004, we reviewed the legal aid application process at the Newfoundland and Labrador Legal Aid Commission. The objectives of our review were to determine whether:

- sufficient documentation was contained in applicant files to demonstrate that legal aid was provided or denied in accordance with the provisions of the *Legal Aid Act* and *Legal Aid Regulations*;
  - the Commission was collecting the amounts applicants had agreed to contribute towards their legal fees; and
  - there were processes to monitor the cost of legal aid to individual applicants.
- 

#### Conclusions from our 2004 review

As a result of our review, we concluded that:

- The decision to provide legal aid was not always supported. In particular:
  - Individuals who indicated they were in receipt of income support received legal aid even though there was no documentation to indicate they were in receipt of income support.
  - Individuals not in receipt of income support received legal aid even though they did not provide all information on liquid assets, income and expenses required to assess whether they were eligible.
  - The Commission was not consistent in applying basic living and transportation allowance rates to applications for individuals in similar circumstances and who did not provide any documentation to support increases in these allowances.
  - Legal merit assessments were not typically documented.

## Update on Prior Years' Report Items

---

- Many of the accounts receivable from clients had been outstanding in excess of ten years and had little collection activity.
  - The Commission did not have a system in place to monitor the costs of providing legal aid services to various legal aid clients.
- 

### Update

In November 2006, we contacted the Newfoundland and Labrador Legal Aid Commission requesting an update as to the progress on the comments and recommendations included in our 2004 report. The information provided by the Commission in response to our request is outlined below.

---

#### **2004 Recommendations**

*The Commission should ensure that legal aid is only provided to applicants who qualify financially and whose cases have legal merit.*

*The Commission should ensure that all required documentation is on file to support financial and legal merit assessments.*

#### **Action Taken**

The response provided by the Commission to our 2004 review was not received in time to be included in our 2004 Annual Report. The response provided to our 2006 Update request contained many of the comments made by the Commission in its response to our 2004 report item.

With respect to the applications examined during our 2004 review, the Commission indicated that it feels it was correct in financially approving those that they did, and refusing those that were refused. In addition, the Commission indicated that, overall, it had no concerns with regard to legal merit assessment.

The Commission indicated that the current Commission members consider our concern with respect to situations where applicants simply provide their social assistance file number verbally to be a reasonable one. The Commission indicated that it will be addressing this issue in the near future. The Commission indicated that it continues to review all of these issues.



The Commission's response to our 2006 Update request also included information on the processes used to assess the financial eligibility and legal merit of applications as follows.

---

### Financial Assessment

The Commission indicated that:

- All applicants for legal aid sign a statutory declaration that the information they provide is true and correct. It is noted that such declarations are acceptable to social agencies, immigration and tax authorities, and as evidence in courts of law as proof of the contents of the document to which the declaration applies. In some instances it may be the only source of proof available.
- The practice at the Commission has been that the person assessing the application, usually an intake worker, will take the applicant's social assistance file number from an original document, such as a drug card, and write the number down on the file or take a copy of the document. In some instances, usually to expedite the process, intake workers have accepted the applicant providing the social assistance file number without actually seeing the document. Over the years, the Commission has felt that its approach in dealing with proof that the person is a recipient of income support has been a reasonable and practical one. However, as noted previously, the Commission indicated that it will be addressing this issue in the near future.
- The Commission indicated that once an application is approved and is assigned to a staff lawyer there is an ongoing monitoring of the applicant's eligibility. During the process of handling criminal and family law cases, lawyers receive a significant amount of personal information about the client, including financial information. The Commission notes that, based on past experience, especially in cases involving recipients of social assistance, such information has very rarely resulted in legal aid certificates being cancelled.

- An applicant will disclose whether or not he or she has liquid assets. Disclosed liquid assets can be confirmed but it is difficult, if not impossible, to confirm that a person has no liquid assets. The Commission notes that occasionally family lawyers will have to confirm the existence of disclosed liquid assets and that the process of doing so can take months and sometimes years. The Commission indicates that this is clearly a situation where they have to allow proof by the word of the applicant and their statutory declaration.
  - The *Legal Aid Rules* for determining financial eligibility require the Commission to apply flexible rules which take into account whether the applicant can retain counsel at their own expense without their dependents, if any, suffering undue financial hardship such as incurring heavy indebtedness or being required to dispose of modest necessary assets. Some latitude has to be provided to those assessing applications to take all factors into consideration in determining a person's eligibility for legal aid.
- 

### Legal Merit

The Commission indicated that:

- If a person is charged with an indictable offence there is no legal merit test required by the *Legal Aid Act* to determine if legal aid will be granted.
- It is only with summary conviction offences and quasi-criminal offences that there has to be an assessment of the legal merits in accordance with the *Act* and *Regulations*. Since this is an area that is solicitor/client privileged, the Commission was not able to disclose what these reasons are. This information is either contained on the computer system or on the application itself. In this regard the Commission indicated it has to rely upon the expert opinion of qualified legal staff and that they do not require extensive legal memoranda except in the contentious or borderline cases. In borderline cases, further information may be required or even legal research. Generally, the Commission does not require extensive memoranda by its staff solicitors to justify accepting applicants charged with summary conviction or quasi-criminal offences. To do so would be very time consuming and result in delays in the application process.

- It is only in the most exceptional circumstances that legal aid is granted in civil matters such as motor vehicle negligence, damage actions and personal injury. Legal aid is never granted to an applicant to represent them as the plaintiff in these kinds of cases. The vast majority of civil matters handled by the Commission are family cases. In family cases, the legal merit assessment in the vast majority of cases is very straight forward.
- It is only in most immigration cases and other civil areas that there is more to the legal merit assessment and consequently there will be something in writing to justify accepting the case.
- As with financial eligibility, legal case merit is also an ongoing process and the degree and extent to which the person receives representation depends upon information that is subsequently received.

---

### **2004 Recommendation**

*The Commission should continue efforts to recover those accounts receivable considered collectible. For those accounts not considered collectible, the Commission should seek the direction of Treasury Board as to their final disposition.*

### **Action Taken**

The Commission indicated that it would further pursue having the permission of the Minister of Justice to write off those accounts that have been determined to be uncollectible. The Commission has requested additional staff to deal with administrative issues.

---

### **2004 Recommendation**

*The Commission should have a system to provide accurate information necessary to monitor legal aid costs by individual cases.*

### Action Taken

The Commission indicated it has had difficulty with the implementation of the Legal Aid Management Information Systems since 1998. The Commission is satisfied that the most recent system is workable and is working on more detailed reports.

The Commission also indicated it does calculate the number of hours a lawyer spends on a file and can determine the cost of the legal services provided to individual clients. With the new satisfactory information system the Commission anticipates that this information will be more readily available.

---

## Department of Municipal Affairs

---

### 3.2.34 Fire Commissioner's Office (2004 Annual Report, Part 2.35)

---

#### Introduction

In 2004, we performed a review of the Fire Commissioner's Office. The objectives of our review were to assess whether:

- the Fire Commissioner was adequately carrying out the provisions of the *Fire Prevention Act, 1991*;
  - the Fire Commissioner had adequate systems and practices in place to deliver Provincial fire prevention and protection programs; and
  - expenditures were approved, monitored and in compliance with Government policies.
- 

#### Conclusions from our 2004 review

As a result of our review, we concluded that the Fire Commissioner's Office needed to do more in inspecting and evaluating the firefighting capabilities of the 297 fire departments throughout the Province and in providing training to the approximately 6,100 firefighters. Specifically:

- over the past 5 years, only 5 of the 297 fire departments were formally inspected;

## Update on Prior Years' Report Items

---

- inspections identified serious deficiencies related to breathing apparatuses, vehicles, number of firefighters responding, and training;
  - since 1991, only 700 firefighters received training to the level of Firefighter I;
  - information was not maintained on how many of the 6,100 firefighters were trained; and
  - an annual report had not been prepared since 1999 due to the inadequacy of the information system and monitoring information captured by the Fire Commissioner's Office.
- 

### Update

In November 2006, we contacted the Department requesting an update as to progress on the comments and recommendations included in our 2004 report. The information provided by the Department in response to our request is outlined below.

---

#### **2004 Recommendation**

*The Department should develop and implement a system for the tracking of fire reports to ensure that all reports are complete and received.*

#### **Action Taken**

The Department indicated that the Office of the Fire Commissioner has been working with the OCIO on the acquisition of a new Incident Reporting Management System (RMS). A budget request form for this new acquisition has been submitted and it is anticipated that this reporting system will be acquired and operational in 2007.

---

#### **2004 Recommendation**

*The Department should establish a training schedule to identify a period over which firefighters would receive training and certification.*

### **Action Taken**

The Department indicated that the Office of the Fire Commissioner continues to provide a schedule of training for locations all throughout the Province ensuring adequate training opportunities are provided. The OFC continues to advocate in house fire department training and are encouraging fire departments to utilize qualified regional trainers/proctors.

---

### **2004 Recommendation**

*The Department should develop standards (e.g. response times and firefighting capabilities) for fire departments.*

### **Action Taken**

The Department indicated that a joint working committee of the Newfoundland and Labrador Association of Fire Chiefs and Firefighters (NLAFCFF) and Fire and Emergency Services was established in 2006 and has met on several occasions to develop a minimum level of training required for response to various types of emergencies. The committee will have its recommendations completed in early January 2007 with a consultation period for the March/April timeframe. A final recommendation based on the consultation process will be ready by June of 2007.

---

### **2004 Recommendation**

*The Department should prepare and submit an annual report.*

### **Action Taken**

The Department indicated that the Office of the Fire Commissioner has been working with the OCIO on the acquisition of a new Incident Reporting Management System (RMS). A budget request form for this new acquisition has been submitted and it is anticipated that this reporting system will be acquired and operational in 2007. The acquisition of this program will enable the Office of the Fire Commissioner to produce detailed annual reports. Until the acquisition of the required system takes place an accurate fire loss report cannot be generated.

---

### **2004 Recommendation**

*The Department should prepare annual work plans and establish an evaluation system for employees.*

### **Action Taken**

The Department indicated that staff workload and planning/development initiatives have been ongoing since the Auditor General's report of 2004. Increased staff training has been ongoing and staff have become certified in Hazardous Materials Response, certification in Fire Investigation to International Standards, and Incident Command System training from the Justice Institute of British Columbia. Work is ongoing to provide staff with further advanced training in instructor disciplines to be completed in fiscal year 06/07.

---

### **2004 Recommendation**

*The Department should inspect all fire departments on a periodic basis.*

### **Action Taken**

The Department indicated that Fire Department inspections are being conducted on an ongoing basis and the Office of the Fire Commissioner will continue to schedule visits to Fire Departments across the Province and determine the capabilities and needs of each Department.

---

### **2004 Recommendation**

*The Department should perform an analysis of the cost of acquiring new vehicles versus the cost of repairs and the cost of leasing vehicles.*

### **Action Taken**

The Department indicated that since the Auditor General report of 2004 cost analyses were conducted on the vehicle fleet and the Office has since acquired two new vehicles. The Fire Commissioner will continue to monitor the costs associated with the vehicles and consider replacement as required.

---

### 3.2.35 Municipal Inspections (2004 Annual Report, Part 2.36)

---

#### Introduction

In 2004 we performed a review at the then Department of Municipal and Provincial Affairs to determine if the Department had adequate systems and procedures in place to ensure that financial information prepared by the municipalities was submitted and monitored, and municipal inspections were performed in accordance with the legislation.

---

#### Conclusions from our 2004 review

In our 2004 annual review, we concluded that:

- the Department of Municipal Affairs did not always receive budgets and financial statements of municipalities within the deadlines established under the *Municipalities Act*;
  - annual municipal inspections were not being performed in accordance to the *Act*; and
  - the new Municipal Information Management Systems (MIMS) did not have all required information input into the system.
- 

#### Update

In November 2006, we contacted the Department of Municipal Affairs requesting an update as to the progress on the comments and recommendations included in our 2004 report. The information provided by the Department in response to our request is outlined below.

---

#### 2004 Recommendation

*The Department should ensure that data entered into its Municipal Information Management System (MIMS) is accurate and its input on a timely basis.*



### **Action Taken**

The Department indicated that it is currently developing ownership responsibilities for the input of data in MIMS. It is in the process of seeking approval to hire a MIMS Coordinator. This will ensure that data is accurate and inputted on a timely basis.

---

### **2004 Recommendation**

*The Department should take action to ensure that budgets and financial statements are submitted in compliance with the Municipalities Act.*

### **Action Taken**

The Department indicated that it has instituted a notification and follow-up process with the municipalities to ensure budgets and financial statements are submitted as required by legislation. Municipalities which do not comply will have their Municipal Operation Grants put on hold and applications under the Capital Works Program will not be considered until such time as they are in compliance. In addition, the Gas Tax Agreements require the timely submission of these accountability documents as a prerequisite to the release of Gas Tax Funds.

---

### **2004 Recommendation**

*The Department should follow-up on all issues identified by the municipalities' auditors.*

### **Action Taken**

The Department indicated that the Regional Offices review the auditor's management letter and any issues identified during the audit are followed-up with the municipality. This may be done by telephone or site visit depending on the issue.

---

### 2004 Recommendation

*The Department should establish a frequency for municipal inspections given that the annual inspection requirement has been removed from the Municipal Affairs Act.*

### Action Taken

The Department indicated that staffing issues have prevented the establishment of a schedule of inspections. However, Regional Offices are very familiar with the municipalities in their regions thus are able to give attention to the municipalities that require more attention than others, especially municipalities that received assistance under the Debt Relief Program. Departmental policy with respect to Councils having to submit financial evaluation reports prior to applying for capital works and other borrowings provides opportunity for assessment and inspection. It also avoids municipalities being approved for new funding initiatives unless they can afford them.

---

## Department of Natural Resources

---

### 3.2.36 *Mining Act* (2003 Annual Report, Part 2.29)

---

#### Introduction

In 2003 we completed a review of the *Mining Act* and *Regulations*, which covered the period 30 June 2000, when the *Act* and *Regulations* came into force, to 31 March 2003.

Our objective was to determine whether lessees were complying with the *Mining Act* and *Regulations* and in particular, whether lessees had:

- submitted a development plan;
  - submitted a rehabilitation and closure plan;
  - provided the required financial assurance; and
  - submitted reports on mining operations for both the upcoming and the preceding years on an annual basis.
-

## Update on Prior Years' Report Items

---

### Conclusions from our 2003 review

In our 2003 review, we concluded that the Department:

- was not obtaining all the information required under the *Mining Act* and *Mining Regulations*; and
  - had not determined the potential environmental impact for the leases or the potential liability to the Province for any future remediation and rehabilitation costs.
- 

### 2005 Update

In our 2005 annual report, we included an update on the Department's progress on the recommendations contained in the 2003 report. The Department indicated that it had commissioned the creation of a *Mining Act* database to monitor and manage information submitted or required by the *Act*. The database was undergoing extensive testing by Department staff and was planned to be made available for use by Department mine inspectors in the second quarter of 2006.

---

### Update

In November 2006, we contacted the Department of Natural Resources requesting an update as to any further progress on the comments and recommendations included in our 2003 report. The information provided by the Department in response to our request is outlined below.

---

### 2003 Recommendation

*The Department should increase its efforts to enforce compliance with the Mining Act and the Mining Regulations by lessees.*

### Action Taken

The Department indicated that it has created a *Mining Act* database to monitor and manage information submitted or required by the *Act*. The Department completed the roll-out and population of the *Mining Act* database which provides the Department with information on what each lessee is required to provide. The database is integrated with the Department's Quarry Management System (QMS) and referenced to the Mineral Lands Division NTS manual system. In addition, a registry of financial assurance security is maintained and stored in a secure location. A monthly reconciliation is performed, reconciling cash deposited to the deposit amount maintained by Government's Financial Management System.

---

### Department of Transportation and Works

---

#### 3.2.37 Bridge Inspections (2003 Annual Report, Part 2.36)

---

##### Introduction

In 2003 we performed a review at the Department of Transportation and Works to determine whether the Department has a bridge inspection program with objective standards for assessing bridge conditions, a bridge information system that is current and accurate and a rehabilitation and replacement plan based on information gathered from bridge inspections.

---

##### Conclusions from our 2003 review

As a result of our review, we concluded the following:

- While the Department had a bridge inspection policy, it was neither documented nor was there documented approval of the policy.
  - The Department did not have documented guidelines to ensure that inspections were consistent among staff and across regions.
  - There were inconsistencies in bridge condition ratings resulting from completed inspections.
  - The bridge inspection database maintained by the Department containing information input from the bridge inspection reports was incomplete and inaccurate.
  - The Department's process relating to bridge rehabilitation and replacement required improvement.
- 

##### 2005 Update

In our 2005 annual report, we included an update on the status of the comments and recommendations from the 2003 report. In its response, the Department indicated progress had been made on most of those recommendations.

---

---

## Update on Prior Years' Report Items

---

### Update

In November 2006, we contacted the Department of Transportation and Works requesting an update as to any further progress on the comments and recommendations included in our 2003 report that had not been addressed at the time of the 2005 update. The information provided by the Department in response to our request is outlined below.

---

### 2003 Recommendation

*The Department should implement a long-term plan for future funding requirements for the rehabilitation and replacement of bridges.*

### Action Taken

The Department indicated that it has developed an eight year plan (2004-2011) to address the issues related to ageing bridge infrastructure. The plan is set up by region and identifies site number; existing bridge type; length of the bridge; replacement and rehabilitation work required; and the estimated cost. Updates to the plan are made as bridge work is completed and includes the costs incurred and the year of completion. The Department estimated funding requirements of \$78.2 million for replacement and rehabilitation of ageing bridge infrastructure over the 8 year period 2004 - 2011. As at the present date approximately \$20 million has been spent.

---

## 3.2.38 Government-Owned Buildings and Properties (2004 Annual Report, Part 2.38)

---

### Introduction

In 2004 we performed a review of the Government owned buildings and properties maintained by the Department of Transportation and Works.

The objectives of the review were to determine whether the Department has adequate systems and processes to:

- determine and monitor the condition of the Government owned buildings and properties;
- forecast annual maintenance expenditures for Government owned buildings and properties and to determine the effectiveness of the maintenance program; and

## Update on Prior Years' Report Items

---

- forecast long-term capital needs for the Government owned buildings and properties, including required expenditures, planned expenditures, funding sources for the planned expenditures and capital work priorities.
- 

### Conclusions from our 2004 review

In our 2004 review, we concluded that Government owned buildings maintained by the Department of Transportation and Works are in need of significant repairs. In January 2004, the Department projected that it needed \$261 million over 20 years in order to keep Government's buildings maintained and to extend their useful life. Furthermore the Department indicated that it needs \$173 million of the \$261 million within the next 5 years.

---

### Update

In November 2006, we contacted the Department of Transportation and Works requesting an update as to the progress on the comments and recommendations included in our 2004 report. The information provided by the Department in response to our request is outlined below.

---

### 2004 Recommendation

*The Department should:*

- *complete detailed condition reports on all of its significant Government owned buildings and develop a long-term capital plan which outlines the nature, amount, and timing of required funding; and*
- *use a risk based strategy approach to identify and prioritize required maintenance and capital alterations and improvements.*

### Action Taken

The Department indicated that in 2005-06, in collaboration with the OCIO, it undertook a process to procure a Capital Asset Management application. ReCAPP (Renewal Capital Asset Planning Process) was the selected application. ReCAPP will help the Department plan and prioritize the renewal of its physical assets using life cycle planning principles. Using ReCAPP, funding requests will be based on maintenance practices, desired condition values and financial returns.

The Department also indicated that it has identified 155 buildings which comprise approximately 4 million square feet of property. Of the 155 buildings there have been 64 main buildings identified as buildings of importance, where regular reinvestment in the asset is required. The Department has engaged a consultant to prepare modeled data for these 155 buildings. This data will give the Department probable events/projects for each building based on the size and type of building. This process will be completed prior to the end of this fiscal year. In 2007-08 the Department will begin to validate this information by sending out internal staff and/or external consultants to verify each asset. The information gathered by Building Design and Construction Division through the facility condition assessments already performed will be used in this process as well. Periodic assessments will have to take place on an ongoing basis to confirm the status of the Department's buildings.

The Department expects that ReCAPP will be able to assist in the 2008-09 budget process by prioritizing projects that need to be done. The use of this new system represents a change of approach in developing the building alterations budget. Once this system is up and running, the Department will be able to forecast budgetary and resources needs. The Department will also be better able to report on the status of buildings, individually or as a whole.

---

### **2004 Recommendation**

*The Department should develop a strategy to dispose of vacant buildings which are determined to be of no further use and outline the nature, amount and timing of required funding.*

### **Action Taken**

The Department indicated that Government has now made decisions on the disposition of 54,580 square meters or 82% of the 66,500 square meters of vacant buildings identified in our 2004 annual report and these actions now have been or are continuing to be carried out.

The Department also indicated that it has a clear policy with respect to its current inventory of vacant properties and any building that is subsequently vacated by a Government department. An assessment is made of the physical condition of the property and the cost of necessary renovations to make the property re-usable by Government. If the renovations are considered cost effective the Government building will be renovated. If it is determined that there is no cost effective Government use of the facility, the Department will either retain the land and demolish the building or sell both the land and building.

---

## Update on Prior Years' Report Items

---

An environmental assessment is carried out on any property prior to its sale or demolition. The Department indicated that since the Auditor General's 2004 Report, Government has substantially increased the allocations provided to the Department to deal with environmental assessments, remediation and demolition activities (from the previous level of \$500,000 per annum) to \$5.4 million in 2005-06 and \$8.0 million in 2006-07.

The Department indicated that it will continue to aggressively pursue disposal of vacant buildings. In this regard funding is no longer a deterrent, as the Infrastructure Strategy has allocated sufficient funding to support the necessary activities.

---

### 3.2.39 Hull 100 (2004 Annual Report, Part 2.39)

---

#### Introduction

In 2004, we performed an update review of the Hull 100 refit. The objective of our review was to determine the status of the refit.

---

#### Conclusions from our 2004 review

As a result of our review, we concluded that the Department of Transportation and Works (the Department) estimated the total cost after refit to be \$2.9 million and that the vessel would be available for service in 2001. However, after 5 years and \$11 million (3 years and \$8 million or 276% over the original estimate), officials with the Department indicated that the vessel was ready for service.

---

#### Update

In November 2006, we contacted the Department requesting an update on the comments included in our 2004 report.

The Department indicated that the Nonia (Hull 100) went into service on 12 July 2005. The total cost incurred by the Department between the vessel acquisition date and the in service date was \$11.1 million. The Department indicated that of this amount, \$9.8 million was for the purchase and capital refit and the remaining \$1.3 million of expenses were not capital in nature.

---



**CHAPTER  
4  
SPECIAL REPORTS**

### Reports under Section 15 of the *Auditor General Act*

#### House of Assembly

Section 15 of the *Auditor General Act* requires that “*Where during the course of an audit, the auditor general becomes aware of an improper retention or misappropriation of public money or another activity that may constitute an offence under the Criminal Code or another Act, the auditor general shall immediately report the improper retention or misappropriation of public money or other activity to the Lieutenant-Governor in Council.*” This section also requires that a general description be provided in the Auditor General's annual report of any incidents referred to the Lieutenant-Governor in Council.

In January 2006, the Office commenced a review of constituency allowances claimed by Members of the House of Assembly. The Office's work to date has resulted in the issuance of 9 reports relating to excess constituency allowances claimed by 5 Members, 2 reports relating to double billings by 2 Members, as well as 1 report on issues relating to payments made by the House of Assembly to certain suppliers. The reports were provided to the Lieutenant-Governor in Council and tabled in the House of Assembly.

Details of the 12 reports issued to date are as follows:

- On 22 June 2006, I reported that a review of expenditures at the House of Assembly identified excess constituency allowance claims by Mr. Edward J. Byrne, M.H.A. totalling \$326,642 relating to fiscal years 2003 and 2004.
- On 4 July 2006, I reported that a review of expenditures at the House of Assembly identified excess constituency allowance claims by Mr. Randy Collins, M.H.A. totalling \$295,418 relating to fiscal years 2003, 2004, 2005 and 2006.
- On 4 July 2006, I reported that a review of expenditures at the House of Assembly identified excess constituency allowance claims by Mr. Wally Andersen, M.H.A. totalling \$243,244 relating to fiscal years 2003, 2004, 2005 and 2006.
- On 4 July 2006, I reported that a review of expenditures at the House of Assembly identified excess constituency allowance claims by Mr. James Walsh, former M.H.A., totalling \$228,169 relating to fiscal years 2003 and 2004.
- On 27 June 2006, I reported issues regarding payments to suppliers - that circumstances surrounding payments totalling \$2,651,644, made from April 1998 to December 2005, to three companies (Zodiac Agencies, JAS Enterprises Limited and Cedar Scents International), led me to question the legitimacy of at least a portion of these payments. I also reported on payments totalling \$170,401 which were made during the period April 2001 through to December 2005, to Unique Keepsakes, a company owned by the former Director of Financial Operations at the House of Assembly, and/or his spouse.

---

## Special Reports

---

- On 5 December 2006, I reported that a review of expenditures at the House of Assembly identified excess constituency allowance claims by Mr. Percy Barrett, M.H.A., totalling \$117,286 relating to fiscal years 1998 to 2004.
- On 5 December 2006, I provided a supplementary report identifying further excess constituency allowance claims by Mr. Edward J. Byrne, M.H.A. totalling \$141,011 relating to fiscal years 1999, 2000, 2001 and 2002. Together with the excess amounts reported on 22 June 2006, this represents total excess claims by Mr. Byrne of \$467,653 for the years 1999, 2000, 2001, 2002, 2003 and 2004.
- On 5 December 2006, I provided a supplementary report identifying further excess constituency allowance claims by Mr. Randy Collins, M.H.A. totalling \$63,180 relating to fiscal years 2000, 2001 and 2002. Together with the excess amounts reported on 4 July 2006, this represents total excess claims by Mr. Collins of \$358,598 for the years 2000, 2001, 2002, 2003, 2004, 2005 and 2006.
- On 5 December 2006, I provided a supplementary report identifying further excess constituency allowance claims by Mr. Wally Andersen, M.H.A. totalling \$101,221 relating to fiscal years 1998, 1999, 2000, 2001 and 2002. Together with the excess amounts reported on 4 July 2006, this represents total excess claims by Mr. Andersen of \$344,465 for the years 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005 and 2006.
- On 5 December 2006, I provided a supplementary report identifying further excess constituency allowance claims by Mr. James Walsh, former M.H.A., totalling \$70,402 relating to fiscal years 1999, 2000, 2001 and 2002. Together with the excess amounts reported on 4 July 2006, this represents total excess claims by Mr. Walsh of \$298,571 for the years 1999, 2000, 2001, 2002, 2003 and 2004.
- On 8 January 2007, I reported that a review of expenditures at the House of Assembly identified double billings by Mr. John Hickey, M.H.A. totalling \$3,770 relating to fiscal years 2004, 2005 and 2006.
- On 8 January 2007, I reported that a review of expenditures at the House of Assembly identified double billings by Ms. Kathy Goudie, M.H.A. Totalling \$3,818 relating to fiscal years 2004, 2005, 2006 and 2007 (to October 2006).

In July 2006, the Lieutenant-Governor in Council requested that the Office review all constituency allowances paid to Members for the period covering the fiscal years ending 31 March 1990 to 2006. The first part of this review, relating to excess constituency allowance claims, has now been completed and a report is included in item 2.1 of this Report. The second part of the review relating to the appropriateness of expenditures claimed and adequacy of supporting documentation is ongoing and is expected to be completed in 2007.