



## Objectives

To determine whether Nalcor Energy was:

- Spending responsibly on discretionary expenses;
- Ensuring adherence to appropriate conflict of interest policies, procedures, and legislation; and
- Assessing the cost-effectiveness of using embedded contractors when planning and meeting operational needs.



## Audit Period

January 2013 through December 2018.



## Why this Audit is Important

- Discretionary expenses by their very nature need to be scrutinized. Oversight is critical to ensuring expenses are necessary, appropriate, and the best use of public money.
- Conflict of interest risks are inherent in any organization's operations. Public sector employees, boards, and contractors need to understand what was expected, and what to do if a conflict happens.
- The use of embedded contractors in project management positions requires assessment for cost-effectiveness, particularly if contracts are not short-term in nature.
- Embedded contractors may have access to confidential information along with the authority to make decisions that, could be perceived as a conflict of interest, generating a personal benefit directly or indirectly.



## Conclusions

Nalcor did not always ensure the best possible use of public money, particularly as it related to its management of discretionary expenses and its use of embedded contractors for the management of the Lower Churchill Project. By not aligning policies covering discretionary expenses with government policy whenever possible, Nalcor incurred excess expenses. Nalcor also did not always ensure adherence to appropriate conflict of interest policies, procedures, and related legislation, creating unnecessary risk. Nalcor's policies did not provide guidance or restrictions on accepting a post-employment contract, which is inconsistent with government policy. Nor did Nalcor manage its use of embedded contractors in a cost-effective manner when hiring highly-paid contractors into technical and corporate management positions, without considering the value of such roles being employees.



## Summary of Recommendations for Nalcor (NL Hydro)

- Discretionary expense policies should be clearly defined, have spending limits, use approval controls, and must be appropriately managed.
- Discretionary expenses should be managed in a manner that ensures the best possible use of public money.
- Conflict of interest policies need to be clear and comprehensive for employees, board members, and contractors.
- Procedures and controls over embedded contractors, particularly for those in positions of authority, need to be effective to mitigate the risk and likelihood of conflict of interest.
- Project and information processes for the staffing of projects should include cost-effectiveness assessments, have consistent contract terms for allowances, and require the continuous management of cost and staffing mix (contractor or employee).



## What We Found

**Discretionary Expenses:** Despite having well-defined policies to guide discretionary travel expenses, there were no policies to guide how hospitality, guest relations, honorariums, and various employee-related expenses were spent. There were also policy gaps for relocation, leased vehicles, as well as board member expense claims. Nalcor generally approved expenses appropriately and stayed within its approved budget in most categories of discretionary expenses during the 2013 through 2018 audit period. There were differences in Nalcor's reimbursement rates as compared to provincial government entitlements, leading to friction within the public service where some employees reap benefits others do not. In some cases, Treasury Board would not approve such entitlements. As an example, in 2018, Nalcor's in-province travel reimbursements were 34 per cent higher than what government rates would allow.

**Conflict of Interest:** While Nalcor's guiding handbook generally reflected the Conflict of Interest Act, Nalcor's policies did not provide guidance on accepting post-employment contracts, which is inconsistent with government's policy. We found that numerous contracts did not contain a conflict of interest section, did not specify termination requirements, had omissions, or ambiguity. We did not find any confirmed incidents of conflict regarding the CEO's employment contract or disclosures.

**Use of Embedded Contractors:** We found that Nalcor did not have policies or procedures that required officials to evaluate the cost-effectiveness of hiring employees directly versus hiring a contractor. There were also areas of inconsistency with respect to the management of embedded contractors, such as the ability to garner detailed information from databases or the termination clauses of agreements. Nalcor did not appear to have strong protocols for procuring contractors and managing their costs, nor did they have formal benchmarking processes to determine bill rates. There was no apparent rationale for giving contractors general economic increases, usually only given to employees. Our report also includes examples of perceived conflicts of interest which illustrate potential opportunities for embedded contractors to benefit personally from their relationship with Nalcor.



## After reading this report, you may want to ask the following questions of government:

1. Are all government entities required to follow Treasury Board policies?
2. How can you ensure conflicts are disclosed, managed and monitored across the public service?
3. How will the findings in this audit influence how government manages embedded contractors?