REPORT OF THE AUDITOR GENERAL

To the House of Assembly

Summary

For the Year Ended
31 March 2003

Newfoundland and Labrador

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Table of Contents

Table of Contents (cont'd.)

Table of Contents (cont'd.)

Chapter 2 (cont'd.) **Page**

Table of Contents (cont'd.)

Preface

This document is presented as a summary of the *Report of the Auditor General to the House of Assembly on Reviews of Departments and Crown Agencies for the Year Ended 31 March 2003.* That Report contains approximately 600 pages of conclusions, commentary, recommendations and auditees' comments. This document contains summary information on each item included in the Report. When readers identify a topic of interest, we encourage them to read the relevant section in the Report.

Introduction

The *Report of the Auditor General to the House of Assembly on Reviews of Departments and Crown Agencies for the Year Ended 31 March 2003* was prepared in compliance with Section 12 of the *Auditor General Act.* Section 12 requires that the Report outline significant matters noted during the course of examining the accounts of the Province, agencies of the Crown and other entities which, in our opinion, should be brought to the attention of the House of Assembly.

Comments on the audit of the financial statements of the Province are contained in a separate report entitled *Report of the Auditor General to the House of Assembly on the Audit of the Financial Statements of the Province for the Year Ended 31 March 2003* which was submitted to the Speaker of the House of Assembly and released on 18 November 2003.

A report on the operations of the Office of the Auditor General for the year ended 31 March 2003 will be submitted to the Speaker on or before 31 January 2004.

Chapter 1

Reflections of the Auditor General

This Chapter provides an introduction to the Report and provides a summary of certain issues identified by the Auditor General. The issues identified are as follows:

1. Accountability

In my opinion, Members of the House of Assembly are not being provided with the necessary information to assess Government's performance relative to goals and objectives outlined in a strategic plan. In my 2002 Report, I noted that only 1 of the 20 Government departments and 9 of the 83 Crown agencies had an annual report for 2001 tabled in the House of Assembly. Although it is encouraging that, during 2003, Government tabled annual reports for 2002 for all Departments and most Crown agencies, these annual reports did not provide the Members of the House of Assembly with information that they require. The annual reports, for the most part, provided financial information and information on activities - performance information in relation to approved plans was severely lacking. In addition, no strategic plans or annual operational plans were tabled in the House of Assembly.

I believe Government should have a legislative accountability framework which requires that all Government departments and Crown agencies table strategic and annual operational plans, and an annual performance report in the House of Assembly.

2. Legislation

There are two pieces of legislation which set rules relating to the financial operations of Government - the *Public Tender Act* and the *Financial Administration Act*. As in other years, my Office continues to identify instances where Government and its agencies have contravened these Acts.

I am concerned that Government continues to contravene the *Public Tender Act* and the *Financial Administration Act*.

3. Inspections

During the year we reviewed inspection programs related to Government's inspections of food premises, child care facilities and bridges. Inspections are required to be performed to gather sufficient information necessary to make a determination as to whether there is compliance with legislation and Government policy, and whether public health and safety is being compromised. Significant weaknesses were found in the inspection activities reviewed during the year.

I am concerned that Government is not doing a good job with its inspection activities. Government should ensure that sufficient inspections are conducted to make a determination as to whether there is compliance with legislation and Government policy, and whether public health and safety is being compromised.

Chapter 2

Comments on Audits and Additional Examinations

2.1 Audit of the House of Assembly

In May 2000, the *Internal Economy Commission Act* was amended so that the accounts of the House of Assembly were to be audited annually by an auditor appointed by the Commission of Internal Economy. As a result, my Office has not had access to the accounts and records of the House of Assembly since then and the expenditures of the House of Assembly have not been subject to audit for the past four fiscal years.

On 24 June 2003, a public accounting firm was appointed to audit the House of Assembly for the years ended 31 March 2002, 2003 and 2004. However, the audit was not completed before the Public Accounts of the Province were tabled in the House of Assembly.

The fundamental role of the Auditor General is to bring an independent legislative audit and reporting process to bear upon the review of all accounts of the Province and provides an increased level of accountability of Government. Therefore, by not allowing the Auditor General to audit the revenues and expenditures of the House of Assembly, accountability is diminished.

I urge the Members of the House of Assembly to give the Auditor General unrestricted access, in accordance with the *Auditor General Act*, to audit the accounts of the House of Assembly.

2.2 Framework of Accountability

There is no legislative requirement for all Government departments and Crown agencies to prepare and table strategic and operational plans in the House of Assembly or to table performance reports on their activities in comparison to these plans.

During 2002-03 all Government departments as well as 77 of the 85 Crown agencies had some form of annual report for 2001-02 tabled in the House of Assembly. While this represents a significant increase in the number of reports tabled over previous years, the reports that were tabled, in general, did not provide information on the performance of each entity in relation to its approved plans using established measurable criteria. As a result, the entities have not provided the information required to truly demonstrate their accountability to the House of Assembly.

A true accountability process would include more than the tabling of a performance report - it would also require the tabling of strategic and operational plans so that Members of the House of Assembly would have the information necessary to compare an entity's performance in relation to its goals and objectives.

2.3 Special Warrants

The common parliamentary means of providing spending authority to government is through the annual passing of supply acts. This involves having the Members of the House of Assembly vote on the government's funding requests before the spending authority is provided. Approval by a majority of the Members of the House of Assembly is needed to pass an Act.

Through the use of a "special warrant", Government can, without the prior debate and approval of the Members of the House of Assembly, spend public money.

During 2002-03, Government issued 12 special warrants totalling $24.2 million.

One special warrant for $4.0 million approved for the Department of Health and Community Services was issued on 24 March 2003 in contravention of the *Financial Administration Act* in that, in our opinion, there was no urgent requirement for the funds.

The Department of Mines and Energy obtained funding from a special warrant and, in contravention of the *Financial Administration Act*, transferred $45,600 from an account identified in the special warrant to an account within the Department not authorized in the warrant.

2.4 Creation of Crown Agencies and Borrowing without Authority

Crown agencies are generally created by the Legislature under some form of legislation to be an instrument for carrying out public policy on behalf of the Crown. This legislation generally provides authority and direction relating to the mandate, purpose, and responsibility of each entity.

Of the 80 Crown agencies which existed at 31 March 2003, 14 were created under the *Corporations Act* rather than by legislation enacted by the Legislature. If there is to be appropriate legislative control over the creation and operation of Crown agencies and if they are to be held accountable to the House of Assembly, then all Crown agencies should be created under the authority of the Legislature. An act of the Legislature would outline the mandate of a Crown agency and also state its purpose, authority and responsibility. In this way all Members of the House of Assembly would be aware of newly created Crown agencies.

The most recent financial statements of the 14 Crown agencies created under the *Corporations Act* disclosed that 5 of these entities had a total of $111.6 million in outstanding debt due to entities outside of the government reporting entity. If the enabling legislation of an agency does not provide specific authority for it to borrow funds or if it has been created under the *Corporations Act*, then the Crown agency does not have the legislative authority to borrow. The *Financial Administration Act* prohibits the raising of money by way of loan without legislative authority. As a result, these entities contravened the *Financial Administration Act* by borrowing money without legislative authority.

The most recent financial statements of the 4 health and community services boards which were created under the *Health and Community Services Act* disclosed that 2 of these entities had a total of $556,265 in outstanding long-term debt to entities outside of the government reporting entity. The *Health and Community Services Act*, under which these entities were created, does not provide specific authority to borrow. The *Financial Administration Act* prohibits the raising of money by way of loan without legislative authority. As a result, these entities contravened the *Financial Administration Act* by borrowing money without legislative authority.

2.5 Monitoring Expenditures of the Consolidated Revenue Fund

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.

During the past year, we obtained expenditure information from Government's accounting 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.

The results of our review are presented in Part 2.5 of the *Report of the Auditor General to the House of Assembly on Reviews of Departments and Crown Agencies for the Year Ended 31 March 2003.*

2.6 Monitoring Agencies of the Crown

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.

Of the 82 entities required to prepare annual financial statements, 29 (2002 -32) were audited by our Office while 51 (2002 -53) 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.

As of 30 November 2003, the required audited financial statements had not been received from the private sector auditors for 8 of the 51 entities and the required management letters had not been received for 13 of the 51 entities. Furthermore, the majority of audited financial statements and management letters that were received from the private sector auditors were not received on a timely basis. On average, audits are completed and the auditors' reports signed within three months after the year end. However, in most cases the financial statements and related management letters are not received by our Office until another four months after the audit report date, and often only after follow-up by our Office.

The highlights from our review of audited financial statements and management letters of Crown agencies are presented in Part 2.6 of the *Report of the Auditor General to the House of Assembly on Reviews of Departments and Crown Agencies for the Year Ended 31 March 2003.*

2.7 Accounts and Loans Receivable in Government

At 31 March 2003 Government was owed $465 million of which $218 million is considered to be uncollectible. Our review disclosed that Government has written off $267 million owed to it during the past 12 years. In my opinion, Government does not do a good job of collecting amounts owed to it.

2.8 Avalon East School District

District # 10 - Avalon East School Board has the largest student population of the 11 school boards in the Province. For the 2002-03 school year, the Board provided an educational program to 29,800 students in 65 schools located throughout the eastern Avalon Peninsula, from Holyrood, south to Peter's River and east. For the year ended 30 June 2003, the Board spent approximately $21.1 million to acquire goods and services.

We completed a review in October 2003 of the acquisition of goods and services by the Avalon East School Board. Our review covered the period July 2002 to June 2003. The objective of our review was to determine whether the Board complied with the requirements of the *Public Tender Act* and *Regulations* in its acquisition of goods and services.

We found that the Board contravened the *Public Tender Act* and *Regulations* as follows:

- For 7 purchases totalling $383,235, there were no public tenders.

- For 5 purchases totalling $387,776, which were not tendered for a particular reason, the Minister, and therefore the House of Assembly, was not informed of these exceptions.

- For 2 purchases totalling $164,676, the Board did not follow the spirit and intent of the *Public Tender Act* by issuing tender specifications which were so specific that competition was restricted.

- In 1 instance a tender valued at $29,750 was awarded to a non-compliant bidder in that the contractor did not meet the tender specifications which required that snow clearing equipment have a minimum horsepower and capacity.

- For 9 purchases totalling $44,490, the Board neither obtained three quotations nor provided documentation that a fair reasonable price was established.

- There were a number of issues relating to the lack of documentation required by the *Regulations*. For example, tender files did not always contain evidence of the day and time that a bid was received, whether the tenders were opened at the time advertised, and whether two people were present when the tenders were opened.

We identified 3 instances where the Board paid $11,223 more than the required tender or quoted amount. As a result of our finding the Board subsequently recovered $8,520 of this amount.

2.9 Avalon West School District

District # 9 - Avalon West School Board has the second largest student population of the 11 school boards in the Province. For the 2002-03 school year the Board provided an educational program to 9,571 students in 32 schools located throughout the western half of the Avalon Peninsula, from Southern Harbour, east to Holyrood and south to Peter's River. For the year ended 30 June 2003 the Board spent approximately $8.7 million to acquire goods and services.

We completed a review in October 2003 of the acquisition of goods and services by the Avalon West School Board. Our review covered the period July 2002 to June 2003. The objective of our review was to determine whether the Board complied with the requirements of the *Public Tender Act* and *Regulations* in its acquisition of goods and services.

We found that the Board contravened the *Public Tender Act* and *Regulations* as follows:

- For 7 purchases totalling $259,953, there were no public tenders.

- For 3 purchases totalling $39,190, which were not tendered for a particular reason, the Minister, and therefore the House of Assembly, was not informed of these exceptions.

- For 3 purchases totalling $87,525, the Board did not follow the spirit and intent of the *Public Tender Act* by issuing tender specifications in 2 instances which referred to a specific model and in 1 instance by issuing tender specifications which were so specific that competition was restricted.

- For 6 purchases totalling $25,685, the Board neither obtained three quotations nor provided documentation that a fair and reasonable price was established.

- There were a number of issues relating to the lack of documentation required by the *Regulations*. For example, tender files did not always contain evidence of the time and date that a bid was received and whether two people were present when the tenders were opened.

The Board has purchased equipment through financing arrangements totalling $273,355 without obtaining the prior approval of the Minister of Education as required by the *Schools Act, 1997*.

2.10 Labrador School District

District #1 Labrador School Board, for the 2002-03 school year, provided an educational program to 4,970 students in 19 schools located throughout Labrador.

The Board does not always operate within its budget as evidenced by the fact that the Board has incurred operating deficits in four of the six fiscal years since it was created. As at 30 June 2002, the Board had an accumulated deficit of $6.5 million. The Board has never received the prior approval of the Minister of Education to incur these deficits as required by the *Schools Act, 1997*.

At 30 June 2002, the Board had a $1.0 million bank loan and had also borrowed approximately $71,000 to purchase two vehicles. The Board did not receive the approval of the Minister of Education prior to incurring this debt as required by the *Schools Act, 1997*.

The Board is not complying with the *Public Tender Act*. Thirty-two purchases totalling $835,647 were made without the required public tender call.

The Board has no documented policies relating to either the acquisition of goods and services or other expenditures such as travel. We found that existing controls in this area were not adequate. For example: purchase orders were not always used; invoices were not always stamped as paid; amounts charged on invoices were not always checked to quoted prices before payment; travel claims were not always approved by the next level of management; and officials could not demonstrate whether all amounts paid relating to the use of Board credit cards were for Board business.

The Board has no documented policies relating to capital assets, which at 30 June 2002 amounted to approximately $42 million. Controls over capital assets were not adequate in that there was no capital asset ledger and assets were not tagged or periodically accounted for.

2.11 Monitoring School Boards

In 1996 the school system in the Province was reorganized with the dissolution of 27 church run school boards and the creation of 10 new English language school boards and one French language school board. As at 31 December 1996, there were approximately 445 schools in the Province with a total enrolment of 110,450 students. There were 317 schools in the Province for the 2002-03 school year with a total enrolment of 84,268 students.

As part of our audit work, we continue to monitor the financial position and annual operating results of the 11 school boards.

The combined financial position of the 11 school boards at 30 June 2003 shows a total accumulated deficit of $134.899 million, a 7% increase from the $126.467 million reported at 30 June 2002. All 11 boards reported increases in accumulated deficits for 2003. These accumulated deficits will eventually have to be funded by Government.

Provincial funding has increased from $528.188 million in 2002 to $554.381 million in 2003 and during this period, annual operating deficits have increased from $2.048 million to $7.247 million. Although 10 boards reported an annual operating deficit during the year, only District 7 had a deficit which was less than that reported in 2002.

At 30 June 2003, 6 of the 11 boards were in contravention of the *Schools Act, 1997* in that they incurred operating deficits, other than related to the accrual of severance and leave, without the approval of the Minister of Education.

2.12 Direct Equity Tax Credit Program

The Direct Equity Tax Credit Program was developed to encourage private investment in new or expanding small businesses as a means of creating new jobs and diversifying the economy throughout the Province. The Program provides a Provincial income tax credit ranging from 20% to 35% of the eligible investment to individuals who invest as shareholders in eligible small business activities. The maximum investment a business can receive through the Program is $700,000 and the maximum annual tax credit per investor is $50,000.

The Program is fully administered by the Department of Finance - Tax Administration division and is governed by the *Direct Equity Tax Credit Regulations* of the *Income Tax Act, 2000*.

Our review of the Program indicated that improvements are required in the approval of applications as well as in monitoring and reporting of Program activities. In particular:

- Documentation required to be provided by applicants under the *Regulations* was not always obtained prior to applications being approved.

- Annual financial statements, compliance statements, and other information required to be provided under the *Regulations* to monitor eligible businesses were not always received or were received late.

- While the Department does maintain statistical information on Program activities, it does not gather any information on the effects of the Program on such factors as employment or economic spin-offs, which could be used to determine whether the Program is meeting its objective of encouraging private investment in new or expanding small businesses as a means of creating new jobs and diversifying the economy throughout the Province.

Although the Program does not involve an expenditure of funds by a Government department, the Program does result in a reduction in Provincial taxation revenue. While tax credits issued under the Program reduce income tax revenue for the Province, the total amount of these tax credits is not reported to the House of Assembly. Therefore, Members of the House of Assembly do not receive adequate information on the costs of the Program, which to May 2003, totalled approximately $611,000.

2.13 Newfoundland and Labrador Farm Products Corporation

In October 1997, the operations of Newfoundland and Labrador Farm Products Corporation in St. John's were privatized and Integrated Poultry Limited (IPL) became the operator. In February 2000, IPL went into receivership and in March 2000, the assets were sold by the receiver to Country Ribbon Inc.. As part of this sale, in March 2000 the Province entered into an agreement with Country Ribbon Inc.. This agreement had a number of conditions, including one that stated that the company would not seek any loan guarantees, grants or other forms of financial assistance from the Province in respect of the purchase of the business or in respect of the operation of the business to the end of the agreement on 9 March 2005.

However, in March 2003 Government gave approval for Country Ribbon Inc. to assign chicken quotas as security for raising long-term capital, in July 2003 Government provided a loan of $1.9 million for the purchase of grain, and in November 2003 Government provided financial assistance of $2.6 million. The $2.6 million was provided in exchange for shares in the company and at the same time, the $1.9 million loan from July 2003 was converted into shares.

2.14 Newfoundland and Labrador Liquor Corporation

The Newfoundland and Labrador Liquor Corporation (the Corporation) is an agency of the Crown incorporated under the *Liquor Corporation Act* of the Province of Newfoundland and Labrador. In 2003, the Corporation paid $93 million to the Province's Consolidated Revenue Fund.

Financial Position and Operating Results

There is 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. This would suggest that the inventory level maintained by the Corporation is much too high or that the Corporation maintains a considerable amount of slower moving stock. Inventory levels and turnover has been considered by the Corporation and a new point of sale system is expected to help determine the types and optimum levels of inventories.

Renovations

As of 18 November 2003, the renovations at the Corporation's Head Office were still ongoing and actual costs totalled approximately $2.57 million. Corporation officials indicated that the renovations are expected to be completed on schedule at an expected cost of approximately $3.14 million.

The Corporation's Board did not approve 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. For example, furniture for one of the executive offices cost approximately $31,000 and "high-end" audio visual equipment costing approximately $180,000 was purchased for the boardroom and training room.

Public Tender Act

The Corporation did not always comply with the requirements of the *Public Tender Act* as follows:

- There were 5 instances totalling more than $1.9 million where the Corporation did not call public tenders for goods and services.

- Change orders for increases in the original contracts were not approved in accordance with the requirements of the *Public Tender Act*.

Marketing

During the fiscal year ended 31 March 2003 the Corporation spent approximately $987,000 on marketing its products. Marketing expenditures include such items as advertising and marketing campaigns, hosting the annual wine show, participating in a rum festival, maintaining the Mile One Corporate Box, provincial and national sales agents, and the annual golf tournament. Our review indicated issues with these expenditures as follows:

- The Corporation does not call public proposals for its various marketing campaigns. Instead, Corporation officials indicated that proposals are requested from firms they consider would be qualified to complete the required work. It was further indicated that while strengths and weaknesses of proposals received are considered, no formal process is in place to evaluate, rank and select proposals received for marketing campaigns.

  Furthermore, there are no contracts in place to outline the role, responsibilities and accountabilities of these firms.

- In June 2001, the Corporation entered into a four year contract for a Corporate Box at Mile One Stadium in St. John's. During the year the Corporation spent $66,551 relating to the use of this Box. There was no cost-benefit analysis prepared to support the need for the Box, there was no reference to the Box in the Corporation's 2002-03 or 2003-04 Business Plans and the Corporation has not established any goals and objectives relating to the Box.

  The records maintained by the Corporation for the Corporate Box do not indicate specifically who attended a given event. Of the 108 events attended during 2002 and 2003, 44 were attended by either members of the Board of Directors, Corporation Executive or Corporation staff. It is not clear how usage by those groups contributes to the Corporation's marketing strategy.

- The Corporation uses the services of Provincial and National sales agents as well as sales agents in other provinces. During the year ended 2002-03, these agents were paid a total of $186,000. We found that the Corporation is not calling for proposals for the provision of these services and there were no signed contracts in place for any of these sales agents.

Agency Stores

The Corporation issues a public proposal call for the selection of agency store operators. Although the proposals relating to agency stores are reviewed by two regional managers and the Corporation's internal audit group, we were informed by officials that they were directed not to make any recommendation to the Board of Directors as to the ranking of each bid and which bid Corporation officials felt was the most appropriate based on the analysis completed.

Instead, the Board is provided with information on all applicants and the financial analysis that results from the review process, and it makes a decision based on this information which is then forwarded to the Minister of Finance for final approval. The reasons for the Board's selection are not documented. As a result, the selection process used by the Corporation is not transparent and is 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 stores that were opened in St. John's, Mount Pearl and Stephenville during the period of our review. Corporation officials indicated that the decision to open new retail stores is generally initiated by the Corporation's Executive based on their knowledge.

Payments made by the Corporation under lease agreements for the three new stores were not consistent with the terms contained in the successful tender bids. As a result, the Corporation was paying approximately $37,000 per year in excess of the amounts specified in the tender bids. The Corporation has since ceased paying these additional costs.

Other Expenditure Issues

There were a number of issues identified during our testing of expenditures as follows:

- Entertainment expenses totalling $19,900 claimed by the President and $8,400 claimed by the Chief of Operations did not have sufficient documentation to demonstrate that the expenses claimed were for Corporation business.

- Contrary to it’s travel policy, the Corporation paid $3,552 for the spouses of the President and the Chair of the Board of Directors to attend a wine show in New York City and also paid for various conference registration fees for these spouses as well as the spouse of the Director of Enforcement. The Corporation was reimbursed an amount of $990 relating to the cost of the airline ticket for the President’s spouse to attend the wine show.

- The Corporation has been using the services of the same engineering firm since the early 1980's to assist in the management of the Corporation’s capital construction and renovation projects. The Corporation has not called for proposals since that time and there are no current terms of reference and no current contract in place. The firm was paid approximately $338,000 for the year ending 31 March 2003.

Board of Directors Expenditures

- Contrary to Government’s policy for remuneration for Board members, during the year, liquor or other alcoholic beverages with a retail value of approximately $11,500 was provided to the Board. Although a portion of this total relates to an annual Christmas party for the Board, officials could not provide the amount spent for this purpose. We were informed, however, that Board members are provided with a Christmas package that would include these products. Furthermore, much of the liquor or other alcoholic beverages provided were premium brands, some having a retail value of $197 per bottle.

- Of payments totaling $31,920 to the Chairperson of the Board of Directors for the period 13 May 2000 to 31 March 2003, payments of $10,830 were not in accordance with the policies of both the Provincial Government and the Corporation relating to remuneration of board members.

2.15 Province of Newfoundland and Labrador Pooled Pension Fund

The Province of Newfoundland and Labrador Pooled Pension Fund (the Fund) was created on 1 July 1980 under the authority of the *Pensions Funding Act* for the purpose of providing for the funding of the pension plans sponsored by the Province.

Pension Investment Committee and Newvest Realty Corporation

The Pension Investment Committee decided it would create an entity to administer up to $200 million in real estate, comprised of a maximum of $100 million from the Pension Fund, and a maximum of $100 million in mortgages. As a result, Newvest Realty Corporation was formed. The Committee has contracted with Penreal Capital Management Limited Partnership of Ontario to manage the real estate activities.

Newvest, to August 2003, has acquired real estate costing $77.59 million. Our review of the Committee's involvement in directing and controlling the real estate activities of Newvest indicated the following:

- The Pension Investment Committee does not require an independent external appraisal prior to the acquisition of real estate property. In addition, neither the Committee nor the Pensions Division of the Department of Finance have visited any of the real estate properties.

- During our financial statement audit of Newvest Realty Corporation, we identified several operational issues which were reported to the Committee. The Committee was not aware of these issues prior to our work.

Our review also indicated that Newvest Realty Corporation contravened the *Financial Administration Act* by borrowing without legislative authority. This resulted from the Corporation financing real estate purchases for four properties through mortgages totalling $46.62 million.

Pension Plan Deficiencies

Even though Government has committed substantial annual special payments to address pension funding issues ($163.5 million for 2003-04), two of the pension plans will be depleted of assets and require deficiency payments. The Uniformed Services Pension Plan will be the first affected in 2013-14 and will require annual deficiency payments estimated to be approximately $17 million while the Teachers' Pension Plan will require annual deficiency payments commencing in 2015-16 which are estimated to be approximately $200 million. These deficiency payments are in addition to the $60 million annual special payments for the Public Service Pension Plan estimated by the actuary to be required until at least 2031.

Changes in the Unfunded Pension Liability During the Year

The unfunded pension liability represents a significant debt for Government and at 31 March 2003 totalled $3.56 billion. The unfunded pension liability is comprised of the accumulated difference between pension contributions received and pension benefits paid, together with the impact of the Fund's investment activity and any actuarial changes. Although Government has taken some action to address the unfunded pension liability, the liability continues to increase.

Our review of the change in the unfunded pension liability indicated the following:

- During the year, the Fund reported significant decreases in the actuarial value of its assets ($430 million) and a significant increase in the value of its estimated accrued benefit obligation ($748 million). This resulted in an increase of $1.18 billion in the net pension liability.

- With the exception of the Members of the House of Assembly Pension Plan, pension contributions by active members of the plans, together with matching employer contributions, are sufficient to meet current service costs. However, these contributions are not sufficient to meet the pensions costs of individuals who retired prior to the Fund being established.

- The number of pensioners is steadily increasing while the number of active members contributing to the Fund has remained relatively constant. As a result, pension benefits are increasing at a much higher rate than pension contributions. For 2002, pension benefits of $296 million exceeded total contributions of $202 million, excluding special payments of $144 million, by $94 million (or 47%).

- In 1998, Government started to make special payments into the Fund with a view to reducing the unfunded pension liability. Since that time Government has made special payments totalling approximately $840 million. However, these payments are not large enough to reduce the unfunded pension liability - in fact, the unfunded liability over that time increased by over $200 million.

- Interest costs on the unfunded pension liability have increased from $171 million in 1994 to $270 million in 2003, an increase of $99 million (or 58%).

- Over the last two years the Fund, similar to many other large pension funds in Canada, has suffered significant losses on its investments. For the year ended 31 December 2002, the Fund recorded a loss of $73 million on the sale of investments and also recorded a decline of $179 million in the market value of investments held at year end.

2.16 Food Premises Inspections and Licensing

The Department of Health and Community Services has the mandate for some of the programs and services being delivered by the Government Service Centre, including the food premises inspection and licensing program.

The *Food and Drug Act* provides for the inspection of food premises to ensure public safety in relation to the food supply. The *Food Premises Regulations* were enacted under the *Food and Drug Act* to prescribe the manner in which food intended for human consumption should be prepared, packaged, stored, transported, sold, advertised or exposed for sale, and delivered. An integral part of the inspection process of food premises requires that inspectors physically inspect food premises.

Many of the weaknesses identified in the food premises inspection and licensing program during our 1998 review have not been corrected. For example:

The *Food Premises Regulations*

The Government Service Centre could not demonstrate whether food premises were in compliance with all areas of the *Food Premises Regulations* as inspection report forms do not provide the information necessary to make this determination.

There were 317 food premises in the Government Service Centre's database which were operating without a valid license at the time of our review.

Memorandum of Understanding

The Government Service Centre is not fully complying with the Memorandum of Understanding in that:

- Approximately 40% of food premises reviewed were not being inspected at the required frequency. This represents an increase from 1998 when we found that approximately 35% of the food premises tested were not inspected in accordance with the required frequency.

- The Department of Health and Community Services is not being provided with the required reports on program activities by the Government Service Centre.

Policy and Procedures

Our review indicated issues regarding the adequacy of and compliance with policy and procedures and the food premises database as follows:

- Policy and procedures were deficient in several areas, including: no guidance for the inspector in determining the timeframe within which identified non-critical health hazards required correction; no guidance for the inspector with respect to the follow up of food premises that repeatedly violate the *Regulations*; procedures related to the recording, investigating and reporting of food related complaints were not clearly established; and no policy with respect to the proper documentation of follow up inspections.

- The database of food premises is neither current nor accurate.

Our review identified instances of non-compliance with policy and procedures as follows:

- Inspectors did not always provide the food premises operator with the required time frame to correct the identified non-critical health hazard.

- Licences were sometimes issued even though there was no evidence on file to indicate that identified critical health hazards were corrected prior to the license being issued.

- Inspections are not representative of year round operations of the food premises in that they are mainly performed between November and March each year.

- Inspection reports are not always properly completed. For example, reports did not always adequately describe the health hazard and/or the corrective action required.

- Follow up inspections were not always completed to determine whether previously identified health hazards were corrected.

Performance Indicators and Monitoring Procedures

Our review indicated that the Government Service Centre does not adequately monitor the food premises inspection and licensing activities. In particular:

- No operational goals or objectives for the food premises inspection and licensing program have been established and no operational plan is in place.

- There is a lack of matching of resources available with the work that has to be completed because in most regions management does not fully participate in the planning and scheduling of inspection and licensing activity.

- Effective inspection and licensing activity monitoring is not possible because the database used to monitor inspection activity is neither current nor accurate, there is no schedule in place against which to monitor inspection activity, and management does not review completed inspection reports.

2.17 Office of the Commissioner of Petroleum Products Pricing

The Office of the Commissioner of Petroleum Products Pricing was established in May 2001 with a mandate which provides for the establishment of geographic pricing zones throughout the Province and the regulation of maximum pricing for petroleum products at the wholesale and retail levels throughout the Province. In October 2001, the Commissioner announced 14 primary pricing zones and 4 sub-zones, and also set maximum prices for petroleum products in each of these zones.

Our review indicated that:

- 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 price for petroleum products set by the Commissioner was incorrectly calculated. In this instance, the maximum wholesale and retail price for diesel fuel in Zone 10 has been understated by 1.725 cents per litre including HST since the first period of price regulation began in October 2001.

- The Commissioner is not adequately monitoring compliance with the *Petroleum Products Act* and *Regulations*. In particular, required contact information has not been provided by all wholesalers and retailers, periodic reports have not been requested from wholesalers and retailers, and no inspections of wholesalers and retailers have been conducted. As a result, the Commissioner did not determine whether wholesalers and retailers are charging more than the established maximum price and did not obtain information on the factors which are influencing the costs of supplying petroleum products throughout the Province.

2.18 Child Care Services

The *Child Care Services Act* and *Child Care Services Regulations* provide the legislative framework for control over the provision of child care services in the Province.

Although the Department of Health and Community Services has overall responsibility for the child care services program, it has not adequately monitored and controlled the delivery of the program. For example, the Department did not release its approved policies relating to the *Child Care Services Act* and *Regulations* until November 2001, 29 months after the *Act* came into force.

As well, while the Department receives an annual report from each of the regional health and community services boards, these annual reports are on the overall operations of the regional boards and are not specific to the child care services program. The Department also receives monthly statistical reports from each of the regional health and community services boards; however, these reports do not include any information relating to visits by regional staff to monitor the operations of the child care facilities.

Identification of Providers of Child Care Services

Neither the St. John's Regional Health and Community Services Board nor the Western Regional Health and Community Services Board take the initiative to actively investigate whether there are any unlicensed child care service providers in their region. Instead, investigation of unlicensed providers is only performed in response to complaints received. Although complaints in the St. John's region are investigated, since June 1999 the Western Board has not conducted any on-site investigations resulting from complaints received.

Licensing of Child Care Facilities

Although licences are being issued to child care facilities, there are many instances where there is no evidence on file to indicate whether all licensing requirements outlined in the *Child Care Services Act* and *Regulations* were met. For example: for 16 facilities there was no evidence on file to indicate that staff had the required current certificate of conduct, first aid certificate, or immunization records; and for 21 facilities the required liability insurance had expired, the Province was not listed as an insured party as required, or the insurance policy did not provide coverage for the maximum number of children for which the centre was licensed. There was also 1 facility for which there was no evidence on file to show that any of the licensing requirements 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. In fact, one agency was not licensed until 15 April 2003 and the other was not licensed until 11 June 2003. These agencies are responsible to ensure that all of the 33 affiliated family child care homes meet the requirements of the *Child Care Services Act* and *Child Care Services Regulations.*

Monitoring Providers of Child Care Services

Although policy requires that a formal annual evaluation be prepared for each facility, we found that in St. John's, none of the required annual evaluations were prepared. Furthermore, although policy requires that monthly visits be conducted where possible, we found instances at both Boards where these monthly visits were not conducted.

As a result of the monitoring that was performed, violation orders were issued for matters such as: a 5 year old child was left unattended in a van in a supermarket parking lot; a 3 year old child was left unattended outside a centre; a child was administered medication, not as prescribed, resulting in an overdose; a bus driver did not have the required driver's licence or current certificate of conduct; food was not handled as required; the ratio of children to staff was exceeded; and a child younger than the licence age restriction was at a centre. We found instances where there was inadequate documentation to support the final resolution of the violations identified.

Violation orders are 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. These violations included such things as: children left unattended; fire exit blocked; garbage left uncovered; emergency lighting not working; inadequate food servings; child to staff ratio exceeded; and lack of cleanliness. Discussions with Board officials indicated that any violation involving a child left unattended would be serious enough to have a violation order served and posted.

Inspections of Child Care Facilities

The required annual fire, life and safety, and environmental health inspections are not always being conducted by the Department of Government Services and Lands. For example, there were 20 facilities (17 family child care homes and 3 child care centres) known to be in operation but not included in the Department's database. Therefore, these facilities were not subjected to the required annual inspection. Furthermore, for the facilities included in the database and required to be inspected, we found that 45 did not have the required annual fire, life and safety inspection conducted since February 2002 and of these, 7 had not been inspected since February 2001. In addition, we found that 77 did not have an environmental health inspection conducted since February 2002 and of these, 7 had not been inspected since February 2001, and for 16, the database does not indicate any inspection ever having been conducted.

2.19 Eastern Health and Community Services Board

The Eastern Health and Community Services Board (the Board) was established 1 January 1996 and operates under the authority of the *Health and Community Services Act.*

Financial Operations

Since the Board commenced operations in 1996 its financial position has deteriorated to the point where it had an accumulated deficit of $8.0 million at 31 March 2003. The Board has had operating deficits each year ranging in amounts from $15,650 in 2002-03 to $3.4 million in 2000-01.

The Board's financial operations are monitored throughout the year through monthly variance reports of actual and budgeted expenditures; however, there are issues relating to the Board's budget as follows:

- The Board's budget is not normally approved by the Department of Health and Community Services until well into the fiscal year; therefore, the flexibility to take action to stay within the budget is reduced.

- Each year the Board submits a budget based on the expected costs and normally results in a deficit since Provincial funding is insufficient to cover projected costs. The Board, however, operates with the premise that additional funding or program direction will be provided by the Province. Although in most cases this funding is eventually provided, usually in March, this results in a budget system where deficits will occur if additional funding is not provided and steps are not taken to reduce costs to the available funding level.

Home Support Programs

A major contributor to the Board's deficit has been the increase in direct client costs for the home support for seniors program and the home support for adult developmentally delayed and physically disabled programs. Costs for these programs were $15.6 million or 34.4% of total Board expenses in 2002-03.

The Board's ability to manage home support program costs is made more difficult as a result of the limitations of its management information systems to provide all of the financial information necessary to monitor and control program costs.

The $13.9 million of direct home support costs in 2002-03 represents an increase of 56% over direct home support costs of $8.9 million in 1998-99. Our review of these programs identified the following:

- Home support program expenditures are not adequately monitored and controlled. Expenditures are made using four different payment systems and monitored through a manual system that is difficult to maintain, does not include all costs, is susceptible to errors and does not provide the total annual costs on a client basis.

- The required annual client assessments relating to the type of care and level of support for clients of the programs were not always reviewed. As a result, there are instances where the level of service was reduced without explanation.

- The required financial assessments to determine the clients' contribution were not always accurate or prepared on a timely basis. As a result, the Board cannot be certain that all clients are making the proper financial contribution towards the service being provided.

- The largest expenditure under these programs was the salaries of home support workers; however, there was not always adequate support such as time sheets to ensure the client was receiving the level of care being assessed and paid for. As a result, there are instances where payments are being made by the Board without adequate support to demonstrate that the client actually received the services or goods being billed and also whether the client was entitled to receive the services or goods.

2.20 Western Regional Health and Community Services Board

The Western Regional Health and Community Services Board (the Board) was established 1 January 1996 and operates under the authority of the *Health and Community Services Act.*

Financial Operations

Since the Board commenced operations in 1996 its financial position has deteriorated to the point where it had an accumulated deficit of $4.0 million at 31 March 2003. The Board has had operating deficits in each of the last five years ranging in amounts from $0.3 million in 2003 to $1.1 million in 2002 and 2001.

The Board's financial operations are monitored throughout the year through monthly variance reports of actual and budgeted expenditures; however, there are issues relating to the Board's budget as follows:

- The Board's budget is not being approved by the Department of Health and Community Services until well into the fiscal year; therefore, the flexibility to take action to stay within the budget is reduced.

- Each year the Board submits a budget based on the expected costs and normally results in a deficit since Provincial funding is insufficient to cover the projected costs. The Board, however, operates under the premise that additional funding will be provided by the Province. Although in most instances this funding is eventually provided, usually in March, this results in a budget system where deficits will occur if the additional funding is not provided and steps are not taken to reduce costs to the available funding level.

Home Support Programs

A major contributor to the increasing deficit has been the increase in direct client costs for the home support for seniors program and the home support programs for mentally and physically challenged adults. Costs for these programs were $10.9 million or 29% of total Board expenses in 2002-03.

The Board's ability to manage home support program costs is made more difficult as a result of the limitations of its management information systems to provide all of the financial information necessary to monitor and control program costs.

The $8.9 million of direct home support costs in 2003 represent an increase of 98% over the direct home support costs of $4.5 million in 1997-98. Our review of these programs identified the following:

- Home support program expenditures were not adequately monitored and controlled. Expenditures were made through three different payment systems and, as a result, individual client costs were not readily available.

- The required annual client assessment relating to the type of care and level of support for clients of the programs for adults is not always completed. The assessments relating to the program for seniors were not always fully completed or approved. As a result there are instances of inadequate support for the type and level of service being assessed and provided.

- One client was funded $275,000 under the programs for adults even though the client did not meet the eligibility criteria as set out in Board policy for the type of care being provided i.e co-operative apartment arrangement.

The required annual financial assessments to determine the clients' contribution were not always completed accurately and were not always accompanied by the required documentation. As a result the Board cannot be certain that all clients are making the proper financial contribution towards the service being provided.

- We found that there was not always adequate documentation to support expenditures. For example, time sheets to support the level of care being assessed and paid for were not on file, in addition, monthly allowances for items such as community access and personal expenses were not always adequately supported. Furthermore, once the monthly allowances were approved they continued to be paid each year without a review to determine whether the allowance continued to be required. As a result, there are instances where payments are being made by the Board without adequate support to demonstrate that the client actually received the services or goods being billed and also whether the client was entitled to receive the services or goods.

- Reconciliations between allowances paid and the actual costs incurred by clients to identify over and under payments were not always completed as required. There were instances where reconciliations were inaccurate, not submitted on a timely basis, lacked the required detail and, furthermore, over and under payments identified during the process were not always settled on a timely basis.

- Policies and procedures relating to the home support programs for adults were incomplete and outdated.

2.21 Medical Care Plan Beneficiary Registration System

The Newfoundland Medical Care Plan was introduced in Newfoundland and Labrador on 1 April 1969. For the year ended 31 March 2003, payments under this system totalled $206.5 million. Upon approval by the Department of Health and Community Services of an application for coverage under the Medical Care Plan, the person is issued a beneficiary card. This card contains a unique and usually lifetime identification number and provides access to coverage under the Medical Care Plan.

Due to weaknesses in controls over beneficiary registration, the lack of security features contained in beneficiary cards, and weaknesses over monitoring claims paid, there could be a significant cost to the Province associated with the payment of ineligible claims. Specifically:

- Controls over the Medical Care Plan registration process require improvement in that the Department currently accepts photocopies of original documents which can be easily altered or falsified. In addition, information on applications processed relating to annual newborns is not validated with provincial vital statistics registries to ensure applicants are eligible to receive coverage under the Plan. For example, in 2002-03, 5,500 applications relating to newborns were processed without validation with provincial vital statistics registries.

- The beneficiary card requires improvements in that it only contains the beneficiary name and number, and does not provide adequate safeguards to identify the user in order to ensure that only eligible beneficiaries receive medical services. As well, the Province has never re-registered beneficiaries and the cards that were issued in 1969 when the Plan was introduced are still valid today. As a result, the Department cannot ensure that only eligible beneficiaries receive medical services.

- At December 2002, there were 81,350 more beneficiary numbers issued than there were residents in the Province. Although some of the difference may be accounted for by various factors including deceased card holders whose deaths have not been reported to the Department, and former residents who have left the Province, the Department does not have the information necessary to determine this. The Department cannot determine how much, if any, has been paid on behalf of ineligible beneficiaries.

- In 2003, $320,000 and in 2002, $318,000 was paid for out-of-province medical care services relating to terminated or invalid beneficiary numbers because the Department is required under reciprocal billing arrangements to pay for these medical services.

- At December 2002, there were 371,144 cards that had been designated as terminated in the Registration System and which could be used in any other province or territory of Canada. This highlights the need for the Department to institute stronger controls over its cards by the use of expiry dates, unique identifiers and requiring periodic re-registration.

- The Department is not adequately investigating why payments are made for out-of-province medical services for individuals who are not eligible for coverage under the Province's Medical Care Plan. Although monthly reports are produced which are designed to determine beneficiary eligibility relating to out-of-province payments, at the time of our review in March 2003 the Department had only contacted beneficiaries listed in its May 2002 report and no work has been started on the monthly reports generated since that time.

2.22 Monitoring Health and Community Services Boards

There are four health and community services boards in the Province comprised of St. John's, Eastern, Central and Western Regions. Each of these boards has local offices throughout the Province. Health and Community Services in Northern Newfoundland and Labrador are administered as separate components of the Grenfell Regional Health Services Board and the Health Labrador Corporation, respectively.

As a part of our audit work, we continue to monitor the financial position and annual operating results of the four community services boards.

The combined financial position of the four health and community service boards at 31 March 2003 shows total unfunded liabilities of $23.7 million, a 158% increase from the $9.2 million reported in 1999-00. These net unfunded liabilities will eventually have to be funded by Government.

The St. John's Regional Health and Community Services Board had total unfunded liabilities of $10.2 million and accounts for 43% of the $23.7 million total reported for 2002-03. The St. John's Regional Health and Community Services Board's unfunded liabilities have increased by 112% from $4.8 million in 1999-00 to $10.2 million in 2002-03. The change in the unfunded liabilities of the other three boards showed some improvement during the year.

Provincial funding has increased from $149.7 million in 1999-00 to $200.0 million in 2002-03 and during this period, annual operating deficits have decreased from $4.6 million in 1999-00 to $1.2 million in 2002-03. Although all boards reported an annual operating deficit during the year, the deficits were less than those reported in 2001-02.

At 31 March 2003, two of the health and community services boards were in contravention of the *Financial Administration Act* in that they had long-term debt totalling $556,265 to entities outside of the government reporting entity. The $556,265 was comprised of $459,301 in long-term debt for the St. John's Regional Health and Community Services Board and $96,964 in long-term debt for the Eastern Health and Community Services Board.

2.23 Monitoring Hospital Boards

From 1 November 1994 to 1 January 1996 the Government of Newfoundland and Labrador established eight regional health care institutions boards to administer health care facilities in Newfoundland and Labrador. These boards took over the facilities previously administered by many small local boards.

The financial position of the eight hospital 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 a part of our audit work, we continue to monitor the financial position and annual operating results of the eight hospital boards.

The combined financial position of the eight hospital boards at 31 March 2003 shows total unfunded liabilities of $424.4 million, a 48% increase from the $286.0 million reported in 1999-00. These net unfunded liabilities will eventually have to be funded by Government.

All eight boards reported increases in the total unfunded liabilities for 2002-03. In particular, the total unfunded liabilities for the Health Care Corporation of St. John's was $233.4 million and accounts for

55% of the $424.4 million total reported by all eight boards for 2002-03. The total unfunded liabilities of the Health Care Corporation of St. John's have increased by 36% from $171.4 million in 1999-00 to $233.4 million in 2002-03.

Provincial funding has increased from $651.6 million in 1999-00 to $857.4 million in 2002-03 and during this period, annual operating deficits have decreased from $33.6 million in 1999-00 to $18.9 million in 2002-03. Although all boards reported an annual operating deficit during the year, three boards had deficits which were less than those reported in 2001-02 (Avalon, Western, and Labrador).

2.24 Coast of Bays Corporation

In March 2003, the Public Accounts Committee made a resolution that *"... the Auditor General be asked to consider performing an audit of the Regional Economic Development Boards in the Province ..."*. Further to this resolution, I performed an audit of three zonal boards during the year. As requested by the Public Accounts Committee, the results of my work are included in my Annual Report to the House of Assembly on Reviews of Departments and Crown Agencies.

The Coast of Bays Corporation was incorporated in 1996. The Corporation covers an area on the island's south coast, including 22 communities, with a combined population of 8,538 (2001).

The Corporation receives its funding from the Federal and Provincial governments. Approximately $1.2 million in funding was received relating to administration expenses since the Corporation's inception in 1996, while $640,000 was received to fund initiatives in accordance with the Corporation's strategic economic plan.

Our review indicated that the Corporation is not always publicly tendering for goods and services, is not fully complying with its performance contract with the Provincial government, and requires improvements in controls in several areas. Specifically:

- **Purchasing Practices.** The Corporation's purchasing policies were not being followed. For example:

- Although the Board's policy is that any expenditures in excess of $7,500 are to be publicly tendered, we found instances where such purchases were not tendered. The Corporation acquired a vehicle costing $25,742, had road construction work completed at a cost of $12,709, and had engineering work completed at a cost of $11,491 - all without a public tender call.

  In two instances, the Corporation did not have sufficient documentation on file to support how the bids received were analysed and whether the best bid was accepted. One instance related to office space rented for $9,840 per annum while the other related to a project requiring boat rental and diving costs totalling $11,200.

- Although the Board has a policy whereby three written quotes must be obtained from potential suppliers of goods or services that exceed $1,000 per item, we found instances totalling $22,983 where the required three written quotes were not obtained.

- **Compliance with Authorities.** The Corporation has not fully complied with the requirements of its performance contract with the Federal and Provincial governments. The Corporation purchased a vehicle costing $25,742, increased an employee's salary by $1,000, and spent $4,557 on gifts and Christmas parties. These were not direct operating expenditures as defined in the contract and therefore would have required specific approval from the Management Committee. No such approval was obtained. Also, the Corporation did not provide the required information to the Management Committee on economic activities.

  The Corporation opened a bank account for the purchase of the vehicle in an attempt to circumvent the performance contract which did not permit such a purchase. Monthly payments of $839 are being made from this account over a three year period starting in September 2001. Deposits for this account resulted from charges to the project and operating accounts for the use of the vehicle and other assets as well as surplus funds from an aquaculture project.

The Corporation is required to repay any unexpended operational funds promptly and in any event within 30 days of written notice by the Management Committee. The Corporation has not remitted any unexpended operational funds and furthermore, the Corporation has not received written notification requesting that the amounts be repaid.

- **Planning, Monitoring and Reporting.** While the Board does receive some information on the status of how projects are proceeding when it meets, we found that there was insufficient information provided by Corporation officials at these meetings to enable the Board to monitor how resources were utilized in meeting stated objectives contained in work plans and the Strategic Economic Plan.

  There is no annual evaluation undertaken by Corporation officials of the various initiatives and projects which could be used by the Board to determine whether the initiatives or projects achieved the intended results and contributed to planned objectives.

- **Controls and Expenditures.** In addition to the public tender issues identified above, we found issues relating to the following:

  - travel claims lacked complete documentation, were not always either signed by the claimant or approved, and there were duplicate travel claim payments;

  - we identified 30 purchases totalling $1,364 made with the Corporate Visa card where documentation was inadequate to support the expenditure;

- the control log to record usage of the vehicle is not complete in that 11,400 kilometres of the 52,000 kilometres recorded on the vehicle were not accounted for; and

- unused cheques are sometimes pre-signed and bank reconciliations are not independently reviewed.

- **Project Administration.** There were a number of issues identified relating to project administration. In one project, the Corporation paid a consultant $88,000 for work which was later deemed unusable. In this case, another consultant was paid $11,491 to complete the required work. In another project, the Corporation spent $51,827 to construct a road and wharf, the road portion of which was later found to be unusable and will have to be moved at an additional estimated cost of $10,323.

  The Corporation has commenced a process towards the construction of an Arts and Exploration Centre in the Coast of Bays Region. The Centre is estimated to cost $1.6 million and will be funded primarily by the Federal Government. The ongoing operating and maintenance costs will be the responsibility of the Board. The construction of this property and responsibility for ongoing operating and maintenance costs is not consistent with the Corporation's existing mandate.

- **Human Resources.** Contrary to the Corporation's policy, three staff positions were filled without a public job competition. Furthermore, not all job competition files contained sufficient information to establish how the successful candidates were determined. In one instance, a job competition file could not be located. Attendance records are not maintained and annual performance evaluations are not performed.

- **Capital Assets.** The Corporation does not have a complete and accurate record of its capital assets.

2.25 Discovery Regional Development Board Inc.

In March 2003, the Public Accounts Committee made a resolution that *"... the Auditor General be asked to consider performing an audit of the Regional Economic Development Boards in the Province ..."*. Further to this resolution, I performed an audit of three zonal boards during the year. As requested by the Public Accounts Committee, the results of my work are included in my Annual Report to the House of Assembly on Reviews of Departments and Crown Agencies.

The Discovery Regional Development Board Inc. was incorporated in May 1996. The Corporation covers an area on the island's east coast, including 109 communities, with a combined population of approximately 33,470 (1996).

The Corporation receives its funding from the Federal and Provincial governments. Due to the lack of externally prepared financial statements for all years since the Corporation's inception in May 1996, we were unable to determine the total funding received relating to administration expenses since the Corporation's inception or the amount received to fund initiatives in accordance with the Corporation's strategic economic plan.

Our review indicated that the Corporation did not always publicly tender for goods and services, did not fully comply with its performance contract with the Federal and Provincial governments, and that improvements in controls are required in several areas. Specifically:

- **Property Purchase.** One item of particular concern resulting from our review relates to the purchase of a property by the Discovery Opportunity Centre Inc. (DOC). The DOC was a company established by the Corporation for this purpose. The property was intended to provide rental accommodations for the local IT sector as well as for Corporation administrative and program staff. The property was purchased in July 2000 for $82,645 with an estimate of $519,500 for extensive renovations. Based on the most recent information available, the DOC owes $740,824 relating to the property purchase and renovations, consisting of $51,519 for the bank mortgage, $449,416 relating to the second mortgage with the building materials supplier and $239,889 relating to other creditors.

Our review of the Corporation's involvement with the DOC property indicated the following:

- The Corporation violated the terms of the performance contract by indirectly purchasing the DOC property. The establishment of the DOC, to enable the purchase and renovation of the DOC property, was designed by the Corporation in an attempt to circumvent the performance contract which did not permit such activities. The performance contract indicates that funding is provided to cover eligible direct operating costs and, in cases where deviations from eligible expenses are going to be made, requires that written approval of the Federal/Provincial Management Committee be obtained. No such written approval was provided.

- No public tender was called for the purchase of the initial property which cost $82,645, and no information was provided that would suggest the Corporation considered other methods of securing the required accommodations. Therefore, the Corporation could not demonstrate whether the most appropriate space was obtained at the best price.

- No public tenders were called for any of the goods and services acquired during the renovation.

- Expenditures totalling $46,050 were incurred by the Corporation on behalf of the DOC.

- At the time of our review, renovations on the building had not been completed, the lone remaining IT sector tenant which had occupied some of the space had left, all former DOC Board Directors except the former President of the

Corporation had resigned and a total of $740,824 was owing to creditors.

- **Planning, Monitoring and Reporting.** No new long-term Strategic Economic Plan was developed to replace the original plan prepared in 1997 and which expired in 2002. Without a long-term strategic plan to provide a focus, it was difficult for the Corporation to demonstrate how annual initiatives contributed to any long-term objectives.

  Also, while the Board did receive some information on the status of how projects were proceeding when it met, we found that there was insufficient information provided by Corporation officials at those meetings to enable the Board to monitor how resources were utilized in meeting stated objectives contained in work plans and the Strategic Economic Plan which expired in 2002.

  As well, there was no annual evaluation undertaken by Corporation officials of the various initiatives and projects which could have been used by the Board to determine whether the initiatives or projects achieved the intended results and contributed to planned objectives.

- **Compliance with Performance Contract.** The Corporation receives its funding based on a performance contract with the Federal and Provincial governments. We found that the Corporation had not fully complied with the requirements of this contract. Most notable is the indirect purchase of the DOC property referred to above, which was not an eligible cost under the performance contract.

  The Corporation is required to repay any unexpended operational funds promptly and in any event within 30 days of written notice by the Management Committee. However, the Corporation had not remitted any unexpended operational funds and furthermore, the Corporation had not received written notification requesting that the amounts be repaid.

- **Controls and Expenditures.** Although not documented as being Board policy, Corporation staff indicated that the Corporation follows the *Public Tender Act* in acquiring goods and services. Given that the DOC was established by the Corporation, we also used the *Public Tender Act* as a reference in reviewing the purchasing practices used by the DOC.

  We found that in relation to the DOC property purchase no public tenders were called for purchases in excess of $10,000. We also found instances related to the property purchase and other Corporation purchases, where three written quotes were not obtained for purchases of less than $10,000.

  Our review also identified issues with respect to documentation and payment of travel claims. Of particular concern was a notification the Board received in July 2002, from the Atlantic Canada Opportunities Agency (ACOA), of irregularities in travel claims by two of the Corporation's Board members. Corporation staff informed us that the two Board members in question were found to be submitting travel claims to two ACOA funded boards for the same travel. In September 2002, the Board decided to suspend the two Board members indefinitely from the Board until ACOA or the two Board members could satisfactorily inform the Board that the matter had been resolved. We were informed by Corporation officials that no further action was taken in relation to this matter and that no monies were recovered from the two Board members.

- **Human Resources.** Corporation staff could not locate job competition files and personnel files. Given the absence of these files, we were unable to review the hiring practices of the Corporation or determine how people were selected for positions or whether salaries and benefits were in compliance with any employment contracts which may have been in place.

  Corporation staff indicated they are responsible for monitoring their own attendance and that there are no attendance or leave records maintained. Also, there is no documented approval for overtime worked.

Our review also indicated that two complaints against the Corporation had been filed with the Human Rights Commission.

- **Capital Assets.** The Corporation does not have a complete and accurate record of its capital assets.

2.26 Marine and Mountain Zone Corporation

In March 2003, the Public Accounts Committee made a resolution that *"... the Auditor General be asked to consider performing an audit of the Regional Economic Development Boards in the Province ..."*. Further to this resolution, I performed an audit of three zonal boards during the year. As requested by the Public Accounts Committee, the results of my work are included in my Annual Report to the House of Assembly on Reviews of Departments and Crown Agencies.

The Marine and Mountain Zone Corporation was incorporated in 1996. The Corporation covers the island's southwest coast, including 27 communities, with a combined population of 9,668 (2001).

The Corporation has received approximately $1 million in funding from the Federal (70% - $700,000) and Provincial (30% - $300,000) governments relating to administration expenses since its inception in 1996. The Corporation also received approximately $1.4 million for 2000, 2001 and 2002 to fund 11 initiatives in accordance with the Corporation's strategic economic plan. Of this $1.4 million, $1.2 million was provided by the Federal government, $75,000 was provided by the Provincial government and the remaining $89,000 was provided by the private sector.

Our review indicated that the Corporation has made unauthorized payments, is not complying with its performance contract with the Provincial government and with other authorities, and requires improvements in controls in several areas. Specifically:

- **Unauthorized Payments.** One item of particular concern resulting from our review was the fact that unauthorized payments totalling $13,339 were made directly to, or on behalf of, the Corporation’s former Executive Assistant. These unauthorized payments were made over a period from 1996 to 1999, and while $8,213 was recovered from the employee, the balance of $5,126 has not been recovered.

- **Compliance with Authorities.** The Corporation has not repaid any of its unexpended operational funds totalling approximately $38,000 as it is required to do under the performance contract and has not provided information required to be submitted to the Management Committee on investment, number and type of businesses, and economic activity. As well, the Corporation has been spending monies on gifts which are not permitted under the performance contract.

  Also, the Board is not always complying with the requirements of the *Public Tender Act* and *Regulations* which it has adopted as policy.

- **Planning, Monitoring and Reporting.** No new long-term Strategic Economic Plan has been developed to replace the original plan which expired in 2002. For 2002-03, the Corporation only established strategic initiatives in its annual Work Plan. Without a long-term strategic plan to provide a focus, it is difficult for the Corporation to demonstrate how annual initiatives will contribute to any long-term objectives.

  Furthermore, there is no annual evaluation undertaken by Corporation officials of the various initiatives and projects which could be used by the Board to determine whether the initiatives or projects achieved the intended results and contributed to planned objectives.

- **Controls and Expenditures.** Travel claims do not always include all of the required information such as time of departure and return. We also identified one duplicate payment, and a claim that was paid without all of the required supporting documentation.

In addition, although Corporation policy requires that all cheques be signed by two individuals, in August 2002 the Corporation authorized the bank to process 20 cheques totalling $12,509 with only one signature because there was no second signing officer available. In this case, four letters were prepared for the release of the 20 cheques and each letter had the signature of the Chairperson affixed at the bottom. Our review indicated that the letters were not actually signed by the Chairperson; instead, the signature was placed on the letters from another Corporation document, photocopied and then faxed to the bank. These incidents represent a serious breach of control and may also be illegal.

- **Project Administration.** For one project, the Corporation paid fees which were higher than the contract and, although additions and changes to the contracted work were made, there was no documentation or prior approval of the additional costs. For another project we found that, although an entity was not complying with the agreement and was not providing the services required, the Corporation continued to pay for services which it had not received.

- **Human Resources.** Employee attendance records are not maintained and employee pay and benefits are communicated verbally and not in writing. As well, the required annual performance evaluations are not documented. Also, deductions are not always taken from payroll as required and the Canada Customs and Revenue Agency has provided the Corporation with notice of the matter.

- **Capital Assets.** Not all assets are identified and tagged and stickers used to tag some computer equipment have fallen off. As well, the database maintained by the Corporation does not include all assets and does not provide an asset's specific location. Also, forms used to track assets on loan are not always being completed.

2.27 Strategic Enterprise Development Fund

In November 1998, Government signed an agreement with Newfoundland Bonding and Composites Limited (subsequently changed to CHC Composites Inc.) regarding Government's contribution of $9.5 million towards the construction of a facility to provide manufacturing, repair and engineering services for aircraft components in Gander. Although the agreement had a number of provisions which allowed Government to inspect the Company's accounting records, and appoint a member to the Board of Directors, Government did neither.

In March 2003, Cabinet authorized a payment of $1 million to offset the Company's operating losses in exchange for preference shares in the Company. At the same time, the Department of Industry, Trade and Rural Development and the Department of Finance were directed to pursue collection activity on a $150,000 personal guarantee from an individual, who is also the Chairman and Chief Executive Officer of CHC Helicopter Corporation, relating to a personal guarantee provided for a now defunct company.

In April 2003, the Department of Industry, Trade and Rural Development wrote the individual requesting payment in full of the $150,000 personal guarantee no later than 15 May 2003. The letter indicated that *"Failure to do so will leave the Department with no other alternative but to examine all available options, including formal legal action."* However, although the $150,000 personal guarantee was not collected, this individual's company was provided with the $1 million in July 2003. As of 24 October 2003, the amount had still not been collected.

In addition to providing the $1 million, the November 1998 agreement was amended to extend the date for creation of 1,000 person years of employment from a six year period from July 1999 to July 2005, to the period ending in May 2008.

The Department of Industry, Trade and Rural Development contravened the *Financial Administration Act* when it provided the $1 million to the Company, in that the expenditure was recorded in 2002-03 as a payment "in trust" relating to an expenditure that was actually made in the 2003-04 fiscal year.

2.28 Royal Newfoundland Constabulary Firearms Review

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 313 police members and 78 civilian staff.

In 1998, members of the Royal Newfoundland Constabulary 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 our fifth annual firearms audit.

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.

Our review identified a number of issues which should be addressed. For example:

- The firearms and ammunition inventory system is not accurate in that we found 5 instances where firearms were found in a location other than that recorded in the system.

- We found instances of non-compliance with the Firearms Policy during an inspection in October 2003. Instances included 3 members who had a loaded firearm in their locker, the amount of ammunition in the lockers of 11 members did not agree with the inventory system, and there were 4 members who did not have pepper spray stored in their lockers.

- The required monthly inspections of firearms storage lockers are not always performed.

- The required annual qualification for the use of firearms training had not been provided to 55 members. Furthermore, 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.

- Although the Use of Force Review Board is required to review all instances of use of force, the Board has not met since October 2002. 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. There were 494 use of force incidents reported between 1 November 2002 and 31 August 2003. Of these 494 incidents, 40 related to firearms, 37 of which involved drawing and/or pointing a firearm at a person while the remaining 3 involved the discharge of a firearm regarding animals.

Select Committee of the House of Assembly

The arming policy of the RNC is to be reviewed at the end of five years by a Select Committee of the House of Assembly, i.e. March 2003. As at November 2003 the arming policy has not been reviewed.

2.29 Mining Act

To commence a mining or quarry project in the Province, a lease has to be obtained from the Department of Mines and Energy. At 31 March 2003, there were 38 lessees holding 66 active leases. After obtaining a lease, the lessee must comply with the requirements of the *Mining Act* in carrying out these operations.

The Department is not obtaining all of the information required under the *Mining Act* and *Mining Regulations* necessary to monitor mineral development in the Province.

Twenty-one lessees holding 31 active mining and quarry leases have applied for designation as a small scale operation which would exempt them from the requirements of the *Mining Act*. However, as at 31 March 2003, the Department had not completed its evaluation for any of the 21 lessees relating to these 31 active leases and therefore, it had not determined whether the lessees were required to provide the information outlined in the *Mining Act* and *Mining Regulations*. Although the remaining 17 lessees holding 35 active leases were required to comply with the *Mining Act* and *Mining Regulations,* all were in violation of the *Act* and *Regulations* in that the Department has indicated that not all of the required information had been obtained.

As a result, the Department has not determined the potential environmental impact for all 66 active leases held by 38 lessees in the Province and the potential liability to the Province of any future remediation and rehabilitation costs.

2.30 Debt Relief Program

In 1996-97, the Department of Municipal and Provincial Affairs introduced a Debt Relief Program to assist municipalities in debt refinancing or debt restructuring.

In 1997, the Department estimated there were 170 municipalities which should be reviewed to determine whether they required assistance under the Debt Relief Program. The Department targeted municipalities which spent 30% or more of their municipal operating grant and tax revenues on debt servicing costs. In May 1999, the Department estimated that it would complete its review of the 170 affected municipalities by 31 March 2000.

As of July 2003, 39 months after the Department's target date of 31 March 2000 to prepare a plan and provide the necessary assistance for the estimated 170 municipalities, only 114 of the 141 municipalities meeting the 30% debt servicing cost to revenue ratio identified in 1997 had been reviewed and assisted. Of the remaining 27 municipalities in this category, 22 had reviews at various stages of completion while 5 have not been reviewed. However, 13 municipalities were reviewed and assisted even though they did not meet the 30% debt servicing cost to revenue ratio identified in 1997. Of these 13 municipalities, 6 received financial assistance while 7 received non-financial assistance. Three of the 6 municipalities which received financial assistance still had a debt servicing cost to revenue ratio of less than 30% when they received assistance.

Program Guidelines indicate that the debt servicing cost to revenue ratios will be the basis for targeting municipalities for review. Although the Department determined the debt servicing cost to revenue ratios in 1997 to identify which municipalities would be reviewed for assistance under the Program, this information has not been updated since that time. Instead, the Department concentrates on Newfoundland and Labrador Municipal Financing Corporation (NLMFC) arrears and requests from municipalities seeking assistance. As a result, the Department has not identified which municipalities currently meet the debt servicing cost to revenue criterion necessary to prioritize reviews and determine eligibility for assistance.

Although reviews in progress in July 2003 have identified that the municipalities will require debt relief funding of approximately $9 million, there was no Program funding in the approved 2003-04 budget. Furthermore, a request for more funding for 2003-04 to continue the Debt Relief Program was deferred by Treasury Board.

Although Program Guidelines provide for an action plan that will permit the municipality to maintain stability in its financial affairs, the financial analysis and resulting agreements with municipalities did not address future capital works and funding requirements. As a result, there may be issues relating to future financial stability.

Monitoring and reporting is inadequate in that inspection targets were not established, annual inspections were not performed subsequent to assistance being provided, action plans addressing non-compliance with agreements were not being prepared, and quarterly reports outlining the status of instances of non-compliance, are not being provided to the Assistant Deputy Minister.

2.31 Disinfection Assistance Program

The Disinfection Assistance Program was introduced as a part of the Safe Drinking Water Initiative in 2001. The purpose of the program was to assist municipalities currently under a boil water advisory by providing them with 100 percent funding up to a maximum of $100,000 to install or upgrade water disinfection systems.

The Department of Municipal and Provincial Affairs is not complying with program guidelines. We found that:

- 5 municipalities were approved for funding totalling approximately $1.2 million even though they were not subject to a boil water advisory.

- 53 municipalities were approved for full funding in excess of the $100,000 limit, the total funding approved for these 53 municipalities totalled $8.7 million. The $100,000 limit was announced by Government in the House of Assembly during the Budget Speech. However, the Department, without authority, increased the $100,000 limit for purchases related to the installation costs of primary disinfection systems. Therefore, we applied the $100,000 limit as announced in the House of Assembly, and as referred to by the ministers of both Municipal and Provincial Affairs, and Environment, subsequent to the Department's revision.

- 6 municipalities were approved for funding totalling approximately $1.2 million for more than one project.

- 3 municipalities were approved for funding of approximately $94,000 for ineligible projects.

- Project files did not always contain the required signed agreements from the municipality.

2.32 Newfoundland and Labrador Housing Corporation Non-Profit Rental Social Housing Units

In 1997, the Newfoundland and Labrador Housing Corporation and the Canada Mortgage and Housing Corporation (CMHC) entered into an agreement which transferred all responsibility for operating and maintaining the rental units and home-owner programs to the Corporation. Under this Agreement, CMHC provides a predetermined annual level of funding on a decreasing basis up to and including the year 2038.

The Corporation's non-profit rental social housing units are in need of significant repairs. At 31 January 2003, 3,004 or 52% of the Corporation's 5,756 non-profit rental social housing units were in excess of 25 years old. In 2001, the Corporation prepared a preliminary cost estimate totalling $76.7 million relating to modernization and improvements of these units. Although the Corporation is undertaking a detailed review of each building to determine a more accurate cost estimate and when the funding will be required, at 31 January 2003, 66% of the buildings had not been reviewed. As a result of the reviews completed, the Corporation has identified that in excess of $29 million will need to be spent on these properties. The Corporation has also determined that, of this $29 million, $13 million is rated as critical and in need of immediate attention. While Corporation officials have discussed funding requirements with the Provincial Government, no source has yet been identified to fund the required repairs.

The Corporation does not have a preventative maintenance program in place to identify and correct deficiencies before they become larger problems. The Corporation does have a budget for repairs and maintenance which annually averages $8.2 million; however, the majority of maintenance work is directed to critical repairs on a day-to-day basis.

The 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. The Corporation has undertaken a number of initiatives in an attempt to identify future capital funding requirements for its non-profit rental social housing units; however, it has still not gathered sufficient information required for a complete long-term plan. Furthermore, although the Corporation does have a budget for modernization and improvements averaging $3.6 million per year over the past five years, based on the information that the Corporation has gathered relating to required capital costs, this funding is considered to be inadequate. The Corporation has indicated that the lack of funding has led to "*... the detriment of tenant living conditions ....*".

The Corporation has indicated that it is presently experiencing a high demand for one and two bedroom units while the need for four and five bedroom units has declined. This demand is the result of demographic changes such as an aging population, more single parents and fewer children per household. As a result, vacancies in four and five bedroom units are becoming increasingly difficult to fill without over-housing the prospective tenants. At 11 December 2002, 2,026 units or 35% of the 5,756 rental units were occupied by families smaller than the unit's capacity.

2.33 SpecialAssistance

Special assistance is budgeted under the ***Municipal*** Financial Assistance Program of the Department of ***Municipal*** and Provincial Affairs to provide assistance to municipalities and other entities. Given the Department's focus on municipalities, it would be reasonable to expect that the majority of this assistance would relate to municipalities and in 1999, 2000, and 2001, the majority of assistance did relate to municipalities. However, in 2002 only 46% of funding related to municipalities and in 2003, only 47% of the funding related to municipalities. Special assistance funding to municipalities has decreased significantly since 1999 when 79% of the funding was provided to municipalities. In my opinion, the funds provided for in this account were not used for the purpose authorized by the Legislature and, therefore, the Department contravened the *Financial Administration Act*.

The Department is not complying with the Program Guidelines. In particular, our review of 110 approved projects indicated the following:

- Recommendations of the Department's Executive Committee, comprised of the Deputy Minister and the Assistant Deputy Ministers, were not documented; therefore, we could not determine whether funding decisions for any of the projects reviewed for the year ended 31 March 2003 were assessed and approved by this Committee.

- Projects were not always approved by the Minister of Municipal and Provincial Affairs as required. For 13 of 73 projects which were not approved by the Minister, the projects were approved by the Premier's Office or the Minister of Finance. Ten of the 13 projects were for groups other than municipalities.

- Project files did not always contain the required analysis or recommendation from the appropriate regional office or, where applicable, the Fire Commissioner's Office.

- Project sponsors did not always submit the required documentation to support how the funding was spent.

2.34 Agency of Record

The Department of Tourism, Culture and Recreation contracts an agency of record to serve as the sole advertising agency for tourism promotion in the Province. The agency of record provides advertising, marketing and research services, and print and electronic production capabilities to the Minister to promote Newfoundland and Labrador as a tourism destination.

Our review of the process used by the Department in selecting and monitoring the agency of record disclosed the following:

- Although the Department has a formal agency of record review process outlining the factors to be used in a review and appraisal, the required review was never completed for the contract period 2 November 1998 to 31 October 2000. Even though the agency of record's performance was never formally reviewed, the contract was extended for the period 1 November 2000 to 31 October 2001.

  Furthermore, although there was no provision in the existing contract for any extension beyond 31 October 2001, the Department extended the contract for an additional seven months to 31 May 2002. As a result, the Department did not follow the spirit and intent of Government's public proposal call process.

- In March 2002, the Department conducted a public proposal call for an agency of record to cover the period June 2002 to May 2005 with two additional one year extensions.

  The terms of reference requesting bids indicated that the value of the contract was approximately $2.0 million annually. However, the Department had estimated that this contract would be worth approximately $4.0 million annually, and this was the basis for its 2002-03 budget. As a result of not referring to the increased actual anticipated value of this contract, it is not known whether additional companies may have responded.

Furthermore, although the Department established a five member review committee to review proposals and make a recommendation to the Minister, we identified a number of issues relating to the process used by the Committee. For example, information on billing rates was requested from bidders but not rated by the Committee, only four of the five Committee members completed the evaluation forms and only two of the four evaluation forms were fully completed for all established criteria. We also found that the review committee did not provide bidders with an opportunity to provide a presentation as was done for the previous contract.

- The Department does not always receive complete documentation to support payments to the agency of record as required under the contract. Details on third party costs and professional fees are not always provided with project estimates or as support for amounts included with billings received from the agency of record. The Department does not follow-up on missing documentation; instead, it pays the billings as submitted by the agency of record. As a result, the Department is not always adequately verifying billings before payment. Furthermore, although the contract provides the Department with the authority to request that records related to completed projects be made available, such a request has never been made.

- The Department contravened the *Public Tender Act* by not calling public tenders relating to selling advertising for the *2003 Travel Guide.* The agency of record received $32,278 for this service relating to the *2003 Travel Guide.*

  The Department contravened the *Financial Administration Act* by not recording in-kind contributions totalling $16,375 for 2002-03 in the accounts of the Province as revenue and by not recording the $32,278 paid to the agency of record as an expenditure.

Furthermore, the acceptance of in-kind contributions is inappropriate and is not in accordance with the spirit and intent of the *Financial Administration Act.*

Officials of the Department informed us that the in-kind contributions totalling $16,375 consisted of airline credits of $10,000 and vacation package credits of $6,375. In-kind contributions are very difficult to control and are open to misuse. We found controls over the in-kind contributions to be severely lacking. After several inquiries to Departmental staff, we were informed that there was no documentation available for 2002-03 and any prior year as to who used the in-kind credits. The lack of documentation regarding these credits is of considerable concern.

2.35 Newfoundland and Labrador Legacy Nature Trust

On 22 March 1999, the Minister of Forest Resources and Agrifoods announced the establishment of the Newfoundland and Labrador Legacy Nature Trust, an incorporated non profit agency with a mandate to raise funds nationally and internationally to finance conservation projects in Newfoundland and Labrador.

On 14 September 1999, the Newfoundland and Labrador Legacy Nature Trust was incorporated by a founding committee of individuals from various sectors of the provincial environmental movement. On 7 March 2000, the Province entered into an agreement with the Trust and paid the Trust $1 million in seed funding.

The Department of Forest Resources and Agrifoods contravened the *Financial Administration Act* in providing the $1 million to the Trust through the use of a special warrant. The special warrant was issued in March 1999 and was indicated to be required on an urgent basis. However, the Trust did not exist at that time and in fact was not incorporated until September 1999, and the $1 million cheque was not paid to the Trust until almost a year later in March 2000.

One of the main objectives of the Trust is to raise funds for conservation in the Province and match conservation needs with sources of support. Although the Trust had established a fundraising target totalling $465,000 for 2001 and 2002, it only raised $5,500 in project funding from outside sources. To the end of 2002, the Trust has spent $301,435 on administration since being incorporated in September 1999.

In June 2003 the Deputy Minister of Tourism, Culture and Recreation wrote the Trust of the Minister's decision to reallocate approximately $500,000 of the Trust to another environmental organization. The matter is still not fully resolved.

Government has not adequately monitored Trust activities. Government appointed a Board member to represent the Province's interest in the Trust; however, this Board member has attended only six of the seventeen Trust Board meetings. As well, the Trust Agreement requires the submission of annual reports to the Minister. At the time of our review in September 2003, the last annual report submitted to the Minister was for the year ended 31 December 2000. I do note however that on 27 October 2003, the Trust submitted an annual report for 2002. No annual report was provided for 2001.

2.36 Bridge Inspections

The Department of Works, Services and Transportation has a bridge inspection policy; however, it is not documented and there is no documented approval of the policy. The bridge inspection policy is not risk based; instead, the policy is to inspect bridges six metres or longer every two years. A bridge may be inspected more frequently if the Bridge Office is made aware of safety issues; however, this is a reactive inspection and not proactive based on bridges with the highest degree of risk for safety. Contrary to the Department' s policy to inspect bridges six metres or longer every two years, 379 of the 715 bridges requiring such inspection have not been inspected within the past two years. Furthermore, 47 of these 379 bridges had an overall rating showing that they were in a poor or unsafe condition and 39 of the 379 bridges did not have an overall rating.

The Department does not have documented guidelines to assist the five regional engineers and six bridge engineers when completing bridge inspections to ensure that inspections are consistent among staff and across regions. Our review indicated 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 is incomplete and inaccurate. For example:

- At the time of our review in December 2002, the bridge inspection database did not include information on inspections performed after 2001.

- Fourteen bridges were not in the database and twelve bridges included should have been removed.

- Information on the length of 54 bridges is not included in the database. As a result, it is not possible, from our review of the database, to determine whether these bridges were six metres or longer and whether they should be inspected by engineers within the two year inspection requirement.

- 54 bridges in the database did not have an overall rating.

- Not all information relating to the condition of the bridges is entered into the database. For example, the results of load tests to determine the safety of a bridge is not entered.

The Department's process relating to bridge rehabilitation and replacement requires improvement. For example:

- The Department does not have a long-term plan to enable Government to consider future funding requirements in an orderly manner and to estimate how much funding will be required or when the funding would be required to rehabilitate or replace ageing bridges so that all bridges are brought up to a fair or good condition.

- The Department does not use a risk based model to identify bridges for rehabilitation or replacement. Instead, on an annual basis the Bridge Office uses listings prepared by the five regions along with their own knowledge of bridge conditions and opinions with regard to safety and economics to set its annual work priorities.

- Officials at the Department have indicated that the funding for the bridge maintenance program is not sufficient. If the required maintenance is not performed on bridges, there will be extra costs for rehabilitation work and the work will be required sooner.

2.37 Ferry Operations

The Department of Works, Services and Transportation is responsible for the Province's ferry operations. As at 31 March 2003, the Province's ferry operations included 21 vessels, 20 of which are serving 15 routes around the Province and 1 vessel, Hull 100, which is undergoing a major refit at Clarenville. Of the 21 vessels, 9 are owned by private operators and the remaining 12 are owned by the Province.

Vessel Renewal and Replacement

Departmental officials have informed us that the normal life expectancy of a vessel is approximately 25 years. At 31 March 2003, 7 of the Province's 12 vessels were more than 25 years old, the average age of all 12 vessels was 26.4 years and ranged from 13 years to 40 years.

The Department has developed a four phase plan to replace 5 of the Province's older vessels; however, no cost or time frame has been established.

Hull 100

In May 1999, the Department purchased the Hull 100 (formerly the Ahelaid), for $930,000. At that time, the Department estimated that the purchase and refit of the Hull 100 would cost $2.9 million and that the vessel would be available for service in 2001. However, as at September 2003, the vessel is still not in service and actual costs to date for the purchase and refit are approximately $8.4 million. Furthermore, Departmental officials indicated that the final estimated cost of the Hull 100 will exceed $9 million and it will not be available for service until 2004.

As a result of an amendment to the *Public Tender Act* in December 2001, the Department paid $500,000 for refit work considered as unknown without having to issue a public tender for the additional work. Furthermore, as a result of the amendment, members of the House of Assembly are no longer required to be notified of this type of additional work not tendered.

Labrador Transportation Initiative Fund

In 1997, the Province received approximately $348 million from the Federal Government and assumed responsibility for the Labrador ferry service. The $348 million was intended to fund this service in perpetuity. However, $207 million of the Fund has been used to construct the Labrador Highway and $96.1 million has been used to fund operating costs of the ferry service. At 31 March 2003, the balance of the Fund was $107.4 million and officials of the Labrador Transportation Initiative Fund have indicated that, if Phase III of the Labrador Highway is funded through this Fund, it is expected to be fully depleted by the 2005-06 fiscal year.

Labrador Ferry Service

The Department contravened the *Public Tender Act* by awarding three contracts valued at $12.2 million without a public tender call. Each of these contracts were extensions of existing contracts. Furthermore, these exceptions were not reported to the House of Assembly as required under the *Act*.

The Department made payments totalling $98,520 to two contractors for costs that were not required under the contracts.

Chapter 3

Update on Prior Years' Report Items

This year we continued a process whereby our recommendations are monitored and the results reported within two years of the original report date. This chapter provides the results of this monitoring process relating to the recommendations contained in 2001 and prior

Reports of the Auditor General to the House of Assembly on Reviews of Departments and Crown Agencies.

Chapter 4

Special Reports

Marine and Mountain Zone Corporation

Section 15 of the *Auditor General Act* requires that we report to the Lieutenant-Governor in Council any improper retention or misappropriation of public money or other activity that comes to our attention during our audits. This section also requires that we provide a general description in the Auditor General's annual report of any incidents referred to the Lieutenant-Governor in Council.

On 9 June 2003 we reported to the Lieutenant-Governor in Council that our review of expenditures of the Marine and Mountain Zone Corporation identified unauthorized payments which were made directly to or on behalf of an employee of the Corporation. For additional information, see item 2.26.