

Accounting for the Citizens' Representative Office is performed by the Office of the Clerk of the House of Assembly. As a result of numerous accounting errors in the accounts of the Office of the Citizens' Representative, the expenditure details in the Province's Public Accounts are not correct. Furthermore, the Office of the Citizens' Representative was not always provided with sufficient information to enable the Office to monitor its expenditures.

2.3 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.

On 16 December 2004, a *Transparency and Accountability Act* received Royal Assent. Pursuant to section 24 of the *Act*, it will come into force on a day to be proclaimed by the Lieutenant-Governor in Council. This *Act* provides direction relating to the creation of Crown agencies and borrowing by such entities.

Creation of Crown Agencies

Of the 82 Crown agencies which existed at 31 March 2004, 15 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.

Although the *Transparency and Accountability Act* requires that the Lieutenant-Governor in Council must provide approval for the incorporation of a corporation (Crown agency) under the *Corporations Act*, this does not provide legislative control over the creation and operation of these corporations.

Borrowing without Legislative Authority

The most recent financial statements of the 15 Crown agencies created under the *Corporations Act* disclosed that 5 of these entities had a total of \$174.7 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 \$983,000 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.

Although the *Transparency and Accountability Act* requires that the approval of the Minister of Finance be obtained before a public body (Crown agency) may borrow, this does not provide legislative borrowing authority to Crown agencies created under the *Corporations Act* or entities without borrowing powers in their legislation.

2.4 Framework of Accountability

In previous Reports to the House of Assembly, my Office has expressed concern over the lack of performance information being provided to the House of Assembly by Government departments and Crown agencies. As a result, my Office recommended the implementation of a legislated accountability framework for all Government departments and Crown agencies which would include the requirement to provide an annual performance report.