

2.30 xwave Contracts

Our review of the Amended and Restated Service Level Agreement and the Amended and Restated Industrial Benefits Agreement between Government and xwave Solutions Inc. identified a number of issues as follows:

- Although xwave did not meet its obligation to contract out \$2,000,000 in work to local IT businesses for 2002, Government did not charge any liquidated damages as allowed in the Agreement.
- xwave did not meet its obligation to create 55 new jobs by 31 March 2004, and has indicated that it will not meet its overall employment commitments by 2007.

Although there is a remedy under the Agreement to charge 15% of the dollar value of the shortfall in jobs in each year, which would represent \$209,522 for 2003 and \$204,649 for 2004, Government did not impose these liquidated damages. Instead, Government has negotiated a settlement for a single lump sum payment of \$2.4 million which represents the liquidated damages resulting from xwave's employment shortfalls and discharges xwave from its employment creation commitments.

- Government is not monitoring the IT sector to determine progress towards its original goal of stimulating growth in innovative technologies and information industries in the Province by privatizing NLCS in 1994. In March 2002, Operation ONLINE ceased operation and therefore, no new work has been done to identify performance indicators or monitor growth in the IT sector.