REPORT OF THE AUDITOR GENERAL

To the House of Assembly

Summary

For the Year Ended
31 March 2006

Office of the Auditor General

Newfoundland and Labrador **January 2007**

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Review of Departments and Crown Agencies

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Preface and Introduction

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 2006.* That Report contains approximately 475 pages of conclusions, commentary, recommendations and auditees' comments.

This document contains summary information on each chapter included in the Report. Information for Chapter 2 has been copied verbatim from the introduction and the "What We Found" sections of the Highlight sheets that are located at the beginning of each Part in Chapter 2. 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 2006* 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 2006* which was submitted to the Speaker of the House of Assembly and released on 13 December 2006. A report on the operations of the Office of the Auditor General for the year ended 31 March 2006 was submitted to the Speaker and released on 17 January 2007.

Chapter 1

Reflections of the Auditor General

This Chapter provides an introduction to the Report as well as an overview of specific issues identified by the Auditor General.

Chapter 2

Comments on Audits and Additional Examinations

2.1 Constituency Allowance Claims

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

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

What We Found

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

(a) Financial controls effectively eliminated

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

(b) Weaknesses in internal controls

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

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

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

Other issues included:

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

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

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

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

2.2 Office of the Chief Electoral Officer

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

What We Found

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

(a) Conflict of interest over hiring

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

(b) Conflict of interest over purchasing

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

(c) Excessive overtime and overtime without required approval

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

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

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

(e) Inaccurate accounting records and lack of internal controls

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

2.3 Monitoring Agencies of the Crown

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

What We Found

(a) Compliance with section 14

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

(b) Statements not released by our Office

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

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

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

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

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

(d) Highlights from Audited Financial Statements

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

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

2.4 College of the North Atlantic

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

What We Found

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

(a) Non-compliance with compensation practices

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

(b) Non-compliance with recruitment policies

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

(c) Qatar - inappropriate gifts and compensation practices

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

(d) Expenditure issues

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

(e) *Public Tender Act* contravened

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

(f) Capital assets inadequately controlled

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

(g) College's Labrador campus lease

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

2.5 Monitoring School Boards

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

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

What We Found

(a) Significant change in school system

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

(b) Financial position

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

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

(c) Operating results

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

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

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

2.6 Liquor Licensing and Enforcement

The *Liquor Control Act* provides authority to the Board of Directors (the Board) of the Newfoundland and Labrador Liquor Corporation (the Corporation) to (i) control the possession, sale and delivery of liquor; (ii) appoint officials to issue licenses and permits to sell or distribute liquor; (iii) appoint or authorize inspectors; and (iv) enforce the *Act* and *Liquor Licensing Regulations* through the cancellation or suspension of licenses.

In 2004, our office reviewed and reported on the Department of Government Services' administration of the Liquor Licensing and Enforcement Program for the fiscal years 2002, 2003 and 2004. In most instances, documentation supporting licensing and inspection activities was available at the Government Services Centre. However, the final resolution of some licensing and inspection issues was only available from the Corporation. Our request to review those records was refused by the Corporation, making us unable to complete the review.

On 11 March 2004, we forwarded a Special Report to the House of Assembly to explain the situation. In 2005, the Corporation provided my Office with access to the information necessary to complete my review of the Liquor Licensing and Enforcement Program for fiscal years 2002, 2003 and 2004.

What We Found

Our review identified instances where the Newfoundland and Labrador Liquor Corporation issued licenses inconsistently and in contravention of the *Liquor Control Act* and *Regulations*. We also found that violations by licensees were not resolved in a timely and consistent manner. In particular:

2004 Review:

(a) Licenses/requests issued inconsistently or approved in contravention of the *Act* and *Regulations*

We identified issues with 10 license applications or requests. These issues included 2 instances where applications were denied when similar applicants had been issued a license, and 8 instances where applicants were issued licenses or requests were approved in contravention of the *Act* and *Regulations.*

(b) Unresolved enforcement issues

In our review of enforcement issues, we found that there were unresolved enforcement issues in 4 enforcement files reviewed. As at November 2005, the time elapsed since the violations were identified ranged from 3 months to 44 months.

2005 Review:

(c) License issued in contravention of the *Regulations*

We identified an issue with 1 of the applications where a license was transferred several years ago to an applicant with a lengthy criminal history. The license was renewed each year since then. Since the initial transfer, the licensee has been convicted of four additional criminal charges. Issuing this license was a violation of the *Regulations.*

(d) Inconsistent actions taken by the Tribunal and delays in disciplinary action

Licensees were treated inconsistently by a Tribunal of Board members and disciplinary action did not occur in a timely manner.

(e) Other issues

We also found that inspection planning was inadequate, there were no guidelines for referring enforcement issues to the Tribunal, and the licensee database was not current.

2.7 Monitoring Expenditures of the Consolidated Revenue Fund

During the past year, we obtained expenditure information from Government's financial management information system relating to all expenditures of the Consolidated Revenue Fund, which for the year ended 31 March 2006 totalled $4.9 billion (Figure 1). We performed a general review and analysis of amounts paid relating to: grants and subsidies; property, furnishings and equipment; purchased services; professional services; allowances and assistance; and transportation and communications. Details of the expenditures in each of these categories are provided as follows:

What We Found

(a) Grants and Subsidies

For the year ended 31 March 2006, grants and subsidies amounted to approximately $2.43 billion or approximately 49.8% of the total expenditures of the Consolidated Revenue Fund. Grants and subsidies are shown in the report by category, department and by type of entity (Figures 2 and 3). Also shown are the names of all entities which received grants and subsidies funding in excess of $10 million for the fiscal year ended 2006 with comparative figures for 2005 (Figure 4).

(b) Property, Furnishings and Equipment

For the year ended 31 March 2006, payments for property furnishings and equipment totalled $48 million - $35.3 million (73.5%) of the $48 million was paid to the hospital and health and community services boards for equipment included in the property, furnishings and equipment category (Figure 5). Also shown are the names of all entities which received payments in excess of $1 million for the fiscal year ended 2006 with comparative figures for 2005 (Figure 6).

(c) Purchased Services

Payments for purchased services totalled $197 million for the year ended 31 March 2006 (Figure 7). Also shown are the entities which received payments in excess of $1 million for the fiscal year ended 2006 with comparative figures for 2005 (Figure 8).

(d) Professional Services

The report shows, by department, payments for professional services for the year ended 31 March 2006 which totalled $285 million (Figure 9). These figures are shown in the report by department. Also summarized are payments of professional services to show all entities or individuals who received payments in excess of $600,000 for the fiscal year ended 2006 with comparative figures for 2005 (Figure 10).

(e) Allowances and Assistance

Payments for allowances and assistance totalled $354 million for the year ended 31 March 2006 (Figure 11). Also summarized are payments of allowances and assistance to show all entities which received payments in excess of $500,000 for the fiscal year ended 2006 with comparative figures for 2005 (Figure 12).

(f) Transportation and Communications

Payments for transportation and communications totalled $35 million for the year ended 31 March 2006 (Figure 13). Also summarized are the payments for transportation and communications to show all entities which received payments in excess of $100,000 for the fiscal year 2006 with comparative figures for 2005 (Figure 14).

2.8 Newfoundland Government Fund Limited

The Newfoundland Government Fund Limited (NGF) was incorporated on 10 November 1995 under the *Corporations Act* of Newfoundland and Labrador. The Fund is a Government-administered venture capital fund under the *Immigration Act* (Canada) and *Immigration Regulations, 1978 (*the *Regulations)*. Under the Canadian Immigrant Investor Program (Program), NGF raises funds from immigrant investors in order to provide loan and equity capital to establish, expand, purchase, maintain or revitalize businesses or commercial ventures in Newfoundland and Labrador. By investing in NGF, the immigrant investors, earn a nominal return on their capital and help satisfy a portion of their visa requirements under the Program.

What We Found

NGF invested the majority of its investment funds ($14.13 million) in two major projects: (i) construction of a hospital in Bonne Bay ($9.4 million), the first advance of which was made in November 1999; and (ii) construction of a school in Lawn ($4.73 million), the first advance of which was made in September 2002. These investments represented approximately 70% of the proceeds from the COM for 81 investors. Under the *Regulations* the money is to be invested for a minimum of 5 years.

(a) Serious concerns with management and administration of the projects

We identified serious concerns with the management and administration of the Bonne Bay hospital project (invested with Hospital Leasing Services Inc.), and the Lawn school project (invested with School Leasing Services Inc.) which have led to an estimated loss to NGF of $1.449 million.

Hospital Leasing Services Inc. was to repay a $9.4 million loan to NGF within 5 years (i.e. 19 December 2005). However, on 29 November 2004 Hospital Leasing Services Inc. defaulted on its initial $5 million payment to NGF. At that point, the company had transferred most of the accumulated surplus cash (approximately $829,000) to Marco Services Limited, a related company of Hospital Leasing Services Inc., without the approval of NGF. NGF never requested audited financial statements until after the company had defaulted on the loan. The financial statements would have shown construction costs of $10.124 million, $724,000 in excess of the authorized cost. This $724,000 and interest of $105,000 comprised the $829,000 that was transferred to Marco Services Limited.

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

(b) Investors in escrow for as long as 8 years

Because NGF has had considerable difficulty in identifying eligible projects to invest in, 11 of the 92 total investors have remained in the escrow account for up to 8 years.

(c) Non-compliance with the *Regulations*

Immigrant investor funds such as NGF must comply with the *Regulations* under the *Act*. Our review indicated instances of non-compliance with the *Regulations* such as: 74 units were not invested in eligible businesses within 9 months of being closed from the escrow account. To compensate, NGF increased the interest for the investors. The total estimated cost of this penalty interest is $1,027,000.

(d) Treasury board direction

The direction from Treasury Board dated 19 April 2005 was not complied with.

2.9 Superintendent of Pensions

The Department of Government Services, through the Superintendent of Pensions, is responsible for administration of the *Pension Benefits Act, 1997,* including monitoring of pension plans. The Superintendent monitors pension plans to ensure compliance with legislation and to safeguard the accrued pension entitlements of plan members. The *Act* applies to all pension plans for those employed in the Province, with the exception of Pension plans to which an Act of the Parliament of Canada applies (e.g. for employees working in the Province employed by a Federally regulated employer).

What We Found

(a) Inadequate monitoring of pension plans

Up to 21 March 2006, 175 pension plans were registered with the Province. These plans represent 72,955 active members and have a total pension liability of $10.6 billion. Our review of Departmental records and a sample of 20 pension files indicated that monitoring the activities of pension plans is inadequate, as follows:

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

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

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

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

(b) Inaccurate database

We performed an analysis of the Department's database and identified instances where information was incorrectly entered in the database, or where obvious incorrect information was submitted by Administrators and entered in the database. These anomalies were not identified by Department officials which brings into question the adequacy of monitoring activities in terms of data entry validation, and the ability to use the database to analyze pension plan performance. The Department does not have criteria the Compliance Officer can use as a guideline for identifying information on the Annual Information Return which would be considered unusual and require follow-up.

(c) Other

Our review also identified that correspondence was not always addressed on a timely basis, the Department's Compliance Officer has received no formal training on pension plan management and no annual report on pension plan activity is provided or required to be provided to the Minister of Government Services and the House of Assembly.

2.10 Monitoring Health Care Boards

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

The financial position of the boards has been deteriorating over the past several years. In an effort to control operating deficits, boards have implemented changes to reduce costs and Government has provided additional funding. As in the past, our Office monitors the financial position and annual operating results of health care institutions and boards.

What We Found

(a) Financial position

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

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

(b) Operating deficits

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

2.11 Community Corrections

A significant responsibility of the Adult Corrections Division (Community Corrections Branch) is to administer, in accordance with court orders, any community-based sentencing directives. The two most common court orders administered by the Branch are probation orders and conditional sentence orders.

What We Found

We identified issues with the Community Corrections Program in terms of:

(a) Issues with case management

- Forms not available: The Acknowledgement of Court Order forms were not always completed, as required by policy.
- Inadequate risk assessment: The Branch was not adequately performing risk assessments of offenders. We found issues with risk assessments including some which were not completed within the required timeframe, completed incorrectly or never completed.
- Inadequate case planning: We identified issues with case plans including plans that were not completed within the required timeframe or not completed at all, plans that did not adequately reflect the conditions in the order or target the relevant criminal factors, and plans that did not reflect the completion of a secondary risk assessment or a progress review.

- Offenders not adequately supervised: There were significant issues with the Branch's supervision of offenders including insufficient supervision and insufficient documentation to determine whether the offender was being supervised properly. In addition, there were instances where there was no documentation on file to support the elimination of supervision.
- Progress reviews: A progress review is required to be completed at the end of every 12 months for each offender under supervision for at least 12 months. The Branch is not always completing progress reviews in accordance with policy.

(b) Information system not fully utilized

Information contained in the System was not current. Reports produced in March 2006 indicated that a significant number of progress reviews, primary risk assessments and case plans were not completed. However, officials indicated that the System may not have been updated. Our review also found that not all report capabilities have been activated in the System, there has been no training provided to staff since 2002 and there is no training manual or user manual.

(c) Non-compliance with policy

The Department is not complying with Government's policy on the hiring of consultants because no public proposal calls were made and authority was not requested from the Lieutenant-Governor in Council for three contracts - each in excess of $100,000.

(d) Payment for services not received

In terms of contractual arrangements, the Department paid for services that were never received. For example, the minimum number of contracted hours and/or sessions was not always delivered by the contractor.

(e) Insufficient information from contractors

The Department did not receive sufficient information from contractors to assess program delivery. As a result, the Department could not evaluate contractor performance.

(f) Other issues

We also identified issues with the lack of verification of monthly invoices and lack of information to determine whether the Assistant Adult Probation Officers program was functioning as intended.

2.12 Royal Newfoundland Constabulary

The Royal Newfoundland Constabulary (RNC) is responsible for policing three regions of the Province the Northeast Avalon, Corner Brook, and Labrador West. The population of these regions is approximately 201,000 (2001 Census). In providing these services, the RNC currently employs 353 police members and 85 civilian staff. In 1998, members of the RNC were permitted to wear firearms as part of their regular uniform. The Select Committee of the House of Assembly which recommended the new arming policy also recommended that a firearms audit be performed annually and submitted to the House of Assembly. As a result, this is the 8th year our Office has reviewed firearms at the RNC.

What We Found

Although the RNC has adequate systems in place to record, monitor and secure its firearms, each year we identify instances of non-compliance with policy. Given the serious repercussions that could result from the use of firearms, it is critical that the RNC continue efforts to improve compliance with established policies and procedures.

(a) Firearms and ammunition inventory not accurate

The firearms and ammunition inventory system is not accurate because not all required adjustments, including additions, dispositions or internal re-assignments of firearms and ammunition, are made on a timely basis. For example, in 2006 we found that 38 handguns and 3 rifles were not recorded in the inventory system and for 5 types of ammunition, the physical count did not agree to what was recorded in the inventory system. In the case of 40 calibre training ammunition, 9,012 rounds could not be accounted for.

(b) Firearms Policy infractions not being properly followed up

Members are not always complying with the Firearms Policy. Information identified during our review and from inspections performed by the RNC indicated a total of 221 infractions for the period November 2004 to November 2006. Furthermore, we found that not all infractions are being referred to the RNC's Professional Standards Section for investigation as required.

(c) Monthly inspections of firearms storage lockers not performed

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

(d) Personnel and equipment inspections not properly reported

RNC policy requires that all personnel and equipment be inspected a minimum of twice per year by the Inspections Officer or Non-Commissioned Officers and that a report on the results of these inspections be provided to the Chief of Police. The Inspections Officer indicated that only one inspection was done for the St. John's area and Corner Brook in 2006, the results of which were reported to the Chief of Police in December 2006.

(e) Training not being completed as required and database not accurate

The RNC is not complying with its policy for use of force training. For example, a total of 173 members as of 31 December 2005 and 121 members as of 8 November 2006 had not re-qualified in the use of firearms in the required one year time frame. In addition, the training database is neither complete nor accurate.

(f) Use of Force Review Board not active

Although the Use of Force Review Board is required to review all instances of use of force, the Board had not met from October 2002 until September 2006. Between October 2004 and September 2006, there were 1,277 use of force incidents reported, 141 which related to firearms.

(g) No Select Committee in place to review arming policy

In 1998, a Select Committee of the House of Assembly recommended that the arming policy be reviewed at the end of five years, i.e. March 2003. As at December 2006, no Select Committee had been established to review the arming policy of the RNC.

2.13 Job Creation Program

The Department of Municipal Affairs provides services and assistance to municipalities throughout Newfoundland and Labrador. The Job Creation Program is a special employment initiative that was first introduced by the Department in 1997. The Program concluded at 31 March 2005 and was replaced by the Community Enhancement Program. For the fiscal year 2005, the Program funded 462 projects in 37 districts and cost $4.2 million.

What We Found

Overall, the Department of Municipal Affairs did not adequately administer the Job Creation Program.

(a) Funding not debated in the House of Assembly

Because the Job Creation Program was funded through special warrants and intra-departmental transfers from other programs, there was no opportunity for the House of Assembly to debate and consider funding requirements for the Program. Furthermore, although officials indicated that funding allocation was made by electoral district, there was no documentation available to show how much was allocated to each district or the basis for the allocation.

(b) Rationale for project selection not well documented

Our review of the project selection process identified the following:

- The merit of a project was not evaluated on an electoral district basis relative to other potential projects to maximize the effectiveness of the Program for the district. As well, because funding is allocated by electoral district, there is no opportunity for the merit of projects to be evaluated on a Province-wide basis.

- The Department has not documented definitions for all its project criteria, and as a result, it was not possible to determine whether these criteria were met.
- Our review of 92 project files indicated that none contained sufficient information to demonstrate that approved projects met all Program criteria.
- Although Program guidelines indicate that sponsor groups are not eligible for future project funding if they did not comply with Program guidelines in prior projects, 13 of the 25 sponsor groups we examined received funding for fiscal year 2005 even though they did not comply with Program guidelines for projects approved in 2004.
- There was no documentation in the files outlining the rationale for funding approvals.
- There was no established application process for additional funding requests which would provide details from the sponsor group on either the work to be completed or the rationale for the additional funding request. As well, there was no documentation indicating on what basis the additional funds were approved.
- Of 58 rejected applications reviewed, 37 were subsequently approved for funding even though they were similar in content and scope to the 21 rejected applications which were not subsequently approved. Furthermore, there was no documentation to either explain the final resolution (approved/not approved) of the 58 applications or to evidence who determined and/or authorized the final resolution.

(c) Project monitoring ineffective

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

2.14 Agriculture Policy Framework Initiative

In May 2003, the Government of Canada and the Province of Newfoundland and Labrador entered into a 5 year agreement for the development of agriculture in the Province. As part of this agreement, $30.1 million (60% Federal and 40% Provincial) in funding was approved under the Agriculture Policy Framework Initiative (APFI). The objectives of the APFI are to enhance the economic sustainability of the industry; support the commercialization and introduction of new technologies and processes; support industry diversification and/or secondary processing; and enhance the competitiveness of the industry.

What We Found

Our review of 35 project files identified significant issues with the APFI related to instances where documentation was not on file to support payments; not all required inspections were performed; not all required inspection information was on file; no compliance audits were conducted; final project reports were not always required; and significant funding was provided to related parties.

Furthermore, the Department is not providing the Federal government with the required quarterly financial and management reports. We also found that, although audited financial statements and management letters were provided, they were not provided within timeframes established in the Agreement. In summary, the Department is not exercising a level of due diligence to ensure that funding provided for approved projects is meeting and advancing the goals of the APFI.

(a) Weaknesses in assessment and approval of projects

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

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

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

(b) Improvements required in monitoring of projects

Our review of 35 projects identified that improvements are needed in the verification of claims, the inspection of projects and the monitoring of a project's progress. It is important for the Department to monitor the progress of projects to ensure that funding is used for the intended purpose and for the continuing benefit of the agricultural industry in the Province. This would include follow-up of projects after they have been completed.

(c) Inadequate reporting on the status of the APFI

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

2.15 Recreation Grants

An objective of the Department of Tourism, Culture and Recreation is to encourage healthy lifestyles. To achieve this objective, the Department has developed several recreation grant programs to: (a) support voluntarism and community development; and (b) promote excellence and social development of young people through sport. These grants are available to organizations within the Province and are structured to support community-based organizations, and provincial and national sports groups. During the fiscal year 2005, the Department provided $1.7 million in grants for recreation operations.

What We Found

Applications for recreation grants in support of community-based organizations, and provincial and national sports groups are not being evaluated consistently. Furthermore, the Department does not monitor the effectiveness of the program.

(a) Inadequate evaluation of grant applications

The Department does not adequately and consistently evaluate grant applications.

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

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

As a result, inconsistent amounts were being awarded to the applicant.

(b) Grants awarded contrary to guidelines

The Department does not award grants in accordance with program guidelines. Specifically, our review identified:

- some groups were over awarded funding grants;
- when comparing groups for similar circumstances, grants were awarded inconsistently; and
- in evaluating grant applications, the Department altered the information provided by the applicants. We were unable to determine if this was the result of an error because reasons were not provided for making these changes.

(c) Programs not monitored

The Department does not monitor the effectiveness of the recreation grant programs. The Department has not established specific targets for program objectives and does not prepare an annual performance report on the activities and outcomes of the programs.

2.16 Provincial Roads Maintenance and Construction

The Department of Transportation and Works is responsible for the construction and maintenance of the Province's road system. The road system consists of approximately 9,000 kilometers of roadway comprised of 7,000 kilometers of paved road and 2,000 kilometers of gravel road. Funding for maintenance of the Province's roads, excluding snow and ice removal, has remained relatively constant from 2001 to 2006 at an average of $20.8 million annually. Construction costs over the same period averaged $58.8 million and ranged from a high of $80.4 million in 2002 to a low of $36 million in 2005.

What We Found

In 1996, we concluded that the Department was not adequately managing the Province's road system. A decade later in 2006, we have come to the same conclusion.

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

There are a number of scientific approaches available to assess the extent of wear of the roads such as road roughness, cracking, and rutting. However, the Department does not have a formal program in place for assessing the physical condition of the Province's road system.

(b) No preventative or preservation maintenance

The Department does not focus its road maintenance expenditures on preventative or preservation analysis or maintenance activities.

(c) The highway maintenance management system is not up to date

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

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

The amount of capital funding approved in the annual budget was significantly less than the amount identified and requested by the Department to fund construction projects. Furthermore, the actual amounts spent were significantly less than the amount contained in the annual budget.

The Department has estimated that $287.9 million is required to bring the Province's road system up to at least a “good condition” rating.

(e) Impact of expenditures on the Province's roads

Annual maintenance costs incurred over the last 6 years has remained relatively constant at approximately $20.8 million. In addition, actual expenditures on road construction activities decreased significantly from 2001 to 2005.

Given the increasing age of the Province's roads and the lack of additional funding for road maintenance, the condition of the Province's roads will deteriorate at an accelerated rate which will negatively impact their maximum useful life.

(f) Impact of reduction in Federal funding

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

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

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

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 2004 and prior *Reports of the Auditor General to the House of Assembly on Reviews of Departments and Crown Agencies.*

Chapter 4

Special Reports

Reports under Section 15 of the *Auditor General Act*

House of Assembly

Section 15 of the *Auditor General Act* requires that *"Where during the course of an audit, the auditor general becomes aware of an improper retention or misappropriation of public money or another activity that may constitute an offence under the Criminal Code or another Act, the auditor general shall immediately report the improper retention or misappropriation of public money or other activity to the Lieutenant-Governor in Council."* This section also requires that a general description be provided in the Auditor General's annual report of any incidents referred to the Lieutenant-Governor in Council.

In January 2006, the Office commenced a review of constituency allowances claimed by Members of the House of Assembly. The Office's work to date has resulted in the issuance of 9 reports relating to excess constituency allowances claimed by 5 Members, 2 reports relating to double billings by 2 Members, as well as 1 report on issues relating to payments made by the House of Assembly to certain suppliers. The reports were provided to the Lieutenant-Governor in Council and tabled in the House of Assembly.

In July 2006, the Lieutenant-Governor in Council requested that the Office review all constituency allowances paid to Members for the period covering the fiscal years ending 31 March 1990 to 2006. The first part of this review, relating to excess constituency allowance claims, has now been completed and a report is included in item 2.1 of this Report. The second part of the review relating to the appropriateness of expenditures claimed and adequacy of supporting documentation is ongoing and is expected to be completed in 2007.