



REPORT OF THE AUDITOR GENERAL

To the House of Assembly



Summary

For the Year Ended
31 March 2010

Office of the Auditor General Newfoundland and Labrador



The Auditor General reports to the House of Assembly on significant matters which result from the examinations of Government, its departments and agencies of the Crown. The Auditor General is also the independent auditor of the Province's financial statements and the financial statements of many agencies of the Crown and, as such, expresses an opinion as to the fair presentation of their financial statements.

VISION

The Office of the Auditor General is an independent Office of the Legislature which, through audit, adds credibility to information provided by Government to the House of Assembly so that the Members of the House of Assembly can hold Government accountable for the prudent use and management of public resources.

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Table of Contents

	Page
Introduction	1
Chapter 1 Reflections of the Auditor General	3
Chapter 2 Comments on Audits and Additional Examinations	
Executive Council	
2.1 • Re-employment of Pensioners	19
Department of Child, Youth and Family Services	
2.2 • Protective Intervention Program – Long-Term Protection	25
Department of Education	
2.3 • Nova Central School District – Monitoring of Financial Operations	29
Department of Environment and Conservation	
2.4 • Contaminated Sites	37
Department of Finance	
2.5 • Gasoline Tax	43
Department of Fisheries and Aquaculture	
2.6 • Fisheries Compliance and Enforcement	47

Table of Contents

		Page
	Department of Government Services	
2.7	• Real Estate Regulation	55
2.8	• Residential Tenancies	59
	Department of Health and Community Services	
2.9	• Diabetes in Newfoundland and Labrador	63
2.10	• Road Ambulance Services	69
	Department of Innovation, Trade and Rural Development	
2.11	• Review of Broadband within Government	73
2.12	• Investments	77
	Department of Justice	
2.13	• Support Enforcement Program	83
	Department of Natural Resources	
2.14	• Forestry Management	85
	Department of Transportation and Works	
2.15	• Vehicle Fleet Management	93

Table of Contents

Page

Chapter 3 Summary of Updates of Prior Years' Report Items

Summary of Updates on Prior Years' Report Items	99
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Introduction

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 2010*. That Report contains approximately 535 pages of conclusions, commentary, recommendations and auditees' comments.

The Report 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.

This document contains summary information on each chapter included in the Report. Information for Chapter 2 has been copied verbatim from the Executive Summary that is located at the beginning of each Part in that Chapter. When readers identify a topic of interest, we encourage them to read the relevant section in the Report.

Chapter 3 includes a summary of findings related to our review of information obtained from various Government departments and Crown agencies on progress relating to past recommendations. In recognition of the trend across Canada to be environmentally conscious and issue reports electronically, details on the findings related to individual reports are only available on our website at www.ag.gov.nl.ca/ag/priorupdates.htm.

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 2010* which was presented to the Speaker of the House of Assembly on 21 January 2011, for tabling in the House of Assembly.

Access to Reports

Reports issued by the Office of the Auditor General are available on the Office's web site at: <http://www.gov.nl.ca/ag/reports.htm>.

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Chapter 1 – Reflections of the Auditor General

My Office is committed to promoting accountability and encouraging positive change in the stewardship, management and use of public resources. To this end, each year my Office conducts reviews of Government departments and Crown agencies which result in findings and recommendations. Our recommendations are designed to address weaknesses and/or improve processes and, therefore, it is important that Government consider them and take corrective action.

Under the *Auditor General Act*, the Auditor General is required to report at least annually to the House of Assembly on the results of work performed during the year. In addition to this Report, I also point out that my comments relating to the audit of the Province's financial statements for the year ended 31 March 2010 were provided to Members of the House of Assembly on Friday, 21 January 2011, as a separate report entitled *Report of the Auditor General to the House of Assembly on the Audit of the Financial Statements of the Province of Newfoundland and Labrador for the Year Ended 31 March 2010*.

Chapter 2 of this Report provides findings and recommendations resulting from my reviews of Government departments and Crown agencies for the year ended 31 March 2010. The Report is comprised of 15 items covering a variety of matters and is provided to the Members of the House of Assembly for their consideration. As in prior reports, in order to provide a balance to our findings and conclusions, the verbatim response from the auditee is included at the end of each item.

Chapter 3 of this Report includes a summary of findings related to my review of information obtained from various Government departments and Crown agencies on progress relating to past recommendations. In recognition of the trend across Canada to be environmentally conscious and issue reports electronically, details on the findings related to individual reports are only available on our website at www.ag.gov.nl.ca/ag/priorupdates.htm.

The following is an overview of the findings related to each of the 15 items and readers are encouraged to go to each section of the Report to obtain further details.

2.1 - Re-employment of Pensioners

During the 2009 calendar year, 443 retired teachers received pension benefits totalling \$15.6 million, were rehired and earned salaries totalling \$5.2 million. We examined a sample of 138 and found that, contrary to the *Teachers' Pension Act* and/or Government policy, none had the required approval from the Minister of Finance, 60 were rehired for in excess of 65 days without having their pension benefits suspended, 6 were employed for three years through the use of multiple applications to the Minister of Education, and there were 4 instances where retired teachers were hired even though numerous non-retired teachers had applied.

During the 2009 calendar year, 60 Government employees received pension benefits totalling \$2.1 million, were rehired and earned salaries totalling \$1.3 million. There were 13 instances where the required Cabinet approval was not obtained and there were 3 instances where the employee was in receipt of a disability pension.

There was no evidence that the rehiring of pensioners was monitored for compliance with established policy.

2.2 - Protective Intervention Program (PIP) – Long-Term Protection (LTP)

As a result of issues with the delivery and monitoring of the LTP component of the PIP there was an increased risk that harm may occur to children. We examined a total of 46 case files from the four Regional Health Authorities (RHAs) and found that 90% of the Risk Assessment Instruments relating to the maltreatment of children and 94% of the Family Centered Action Plans designed to assist in the mitigation of identified risks were not completed as required by policy at the Department of Child, Youth and Family Services (the Department).

The 46 case files required 464 Risk Assessment Instruments (RAI) and 464 Family Centered Action Plans (FCAP); however, 416 (90%) of the RAIs and 437 (94%) of FCAPs were not completed as follows:

RHA	Required	RAIs Not Completed	FCAPs Not Completed
Eastern	363	325	342
Central	44	39	40
Western	30	30	29
Labrador-Grenfell	27	22	26
Total	464	416	437
	100%	90%	94%

We found 17 case files where not one RAI was completed even though 164 were required and 28 case files where not one FCAP was completed even though 292 were required as follows:

RHA	Files with no RAI completed	Required	Files with no FCAP completed	Required
Eastern	9	109	18	222
Central	1	9	3	23
Western	4	30	3	28
Labrador-Grenfell	3	16	4	19
Total	17	164	28	292

There were concerns about the Labrador-Grenfell RHA's ability to comply with the Provincial standards for LTP because it could not implement the Department's Risk Management System in all locations as a result of difficulties in recruiting and retaining social workers. There were concerns with the lack of monitoring and evaluation of the PIP.

2.3 - Nova Central School District – Monitoring of Financial Operations

Our review identified a number of issues with regard to the District's non-compliance with the *Public Tender Act* and lack of monitoring and control of its capital assets and vehicle fleet. We also identified issues with compensation and recruitment practices and expenditures related to travel claims, cell phones and other expenditures.

We identified 14 purchases totalling approximately \$627,000 where the District did not call a public tender as required. In addition, there was a purchase of \$56,370 for mechanical tools where the District did not award the tender to the lowest bidder and there was no documentation to support why the lower bids were not accepted; a purchase of \$59,015 for music equipment which had been tendered for a specific brand and model number; and a purchase of approximately \$40,000 for a wheelchair lift where, although the District completed and filed a Form B as an emergency purchase, in our opinion, this was not an emergency situation.

There was no capital asset ledger maintained, furniture and equipment was not tagged for monitoring and control purposes and there was no policies and procedures manual to guide staff in the monitoring and safeguarding of capital assets. The District did not conduct periodic inventory counts to confirm/reconcile its furniture and equipment inventory. We determined that two of eight computers we selected for examination from the District's listing were not physically located at head office. Apparently one computer was at an employee's home while the other computer was in an employee's vehicle. Although we asked the employee to retrieve the computer from the vehicle, the employee did not comply.

The District did not monitor cost and usage on any of its 208 vehicles. Although the District has 111 fuel credit cards, they were not necessarily assigned to a particular vehicle in order to allow monitoring of costs. In addition, during our audit, we determined that the District could not locate 8 of the 111 fuel credit cards. We found 26 instances of expenditures totalling \$860 inappropriately charged to the fuel credit cards.

Sixteen of the 28 District service vehicles were kept at employees' homes after working hours and on weekends. However, there was no documentation to demonstrate that these 16 vehicles should be kept at personal homes, 4 of the 16 vehicles were located in communities where a District depot was also located and 2 of the 16 vehicles were used by management employees who drove 44 kilometres return and 70 kilometres return each day from their home to their headquarters without the required authorization of a department head.

The District was not adequately recording, monitoring and reporting leave for its management employees. The process for hiring summer maintenance employees was not documented and the District did not maintain any competition files. We identified an instance where, in July 2007, a spouse of a senior maintenance manager was hired as a labourer under the summer maintenance program and no competition was held for the position.

Contrary to the *Schools Act, 1997*, the District did not obtain approval of the Minister of Education before entering into long-term financing leases totalling approximately \$410,000 relating to the acquisition of equipment and vehicles.

2.4 - Contaminated Sites

In 2002, we determined that Government was not doing a good job with regard to identifying and remediating contaminated sites in the Province. We now find that, eight years later, Government is still not doing a good job with regard to identifying and remediating contaminated sites in the Province. Government does not have a comprehensive long-term plan and timeline in place to systematically remediate contaminated sites, the database is neither complete nor accurate, there is no central budget to show how much is set aside on an annual basis for contaminated site remediation and the Department of Environment and Conservation is not adequately monitoring the activities of other departments and agencies in relation to contaminated sites. Furthermore, as a result of the inadequate contaminated sites database, the Office of the Comptroller General is not being provided with complete information on which to determine the Province's environmental liabilities for inclusion in the Province's financial statements.

2.5 - Gasoline Tax

Our review indicated that the Department of Finance (the Department) was not proactive in identifying unregistered wholesalers or retailers. The Department did not adequately review wholesaler or retailer returns to determine compliance with the *Revenue Administration Act* (the *Act*) and performed a very limited number of audits. Furthermore, the extent of audit work performed by staff at the Tax Administration Division was not sufficient. Staff were not provided with any standard audit programs. Exception reports produced by the Department's database were not adequately followed-up.

Although there were instances where tax-exempt diesel fuel was used for an inappropriate purpose, the Department did not conduct sufficient audit work or follow-up on exceptions identified in monthly reports or results of fuel testing.

2.6 - Fisheries Compliance and Enforcement

The Department of Fisheries and Aquaculture is not carrying out inspections in a manner that would maximize fish quality and food safety. We found a number of issues with regard to the inadequate planning and scheduling of inspection activity, with Inspectors not following the required inspection procedures, not completing inspection forms and not issuing warnings and tickets when instances of non-compliance were identified. In addition, the inspection database was significantly inadequate, inaccurate and incomplete. As a result of the lack of complete and accurate information, the Department cannot adequately plan, schedule and monitor inspection activity.

Our review indicated that regional offices did not prepare annual inspection work plans and inspection activity was not scheduled. Furthermore, Regional Directors have little to no involvement in the planning or scheduling of inspections. Of the 3,575 inspections recorded in the inspection database during 2010, 1,512 (42%) were instances where Inspectors were travelling to landing sites and processing facilities and an inspection was not completed because there were no fish to inspect. Furthermore, 785 (52% of 1,512) of the failed inspections were recorded by five Inspectors.

Inspections of fish at landing sites were not being carried out in a representative and risk-based manner and numerous landing sites with significant volumes of fish landings were not inspected at all. No inspections were performed at 310 (73%) of the 425 identified fish landing sites where a total of 57.2 million kilograms of fish (29% of the 199.9 million kilograms of total landings) were landed. We found that 192 (or 25% of the 770) of total inspections occurred at 16 landing sites where only 7.0 million kilograms or 4% of total fish landings occurred.

Inspections of fish at landing sites and processing facilities were not being carried out in a representative or risk-based manner with regards to the various species. Although Shrimp landings, which totalled 56.7 million kilograms, had 357 inspections, Cod landings, which totalled only 10.2 million kilograms, had 367 inspections. The Branch inspected 6.3 million kilograms or approximately 11.1% of the Shrimp landings totalling 56.7 million kilograms, while just 2.6 million kilograms or approximately 5.0% of the Crab landings totalling 51.8 million kilograms were inspected – even though there was a greater food safety risk associated with Crab.

None of the 437 inspections carried out at the Port aux Basques Ferry Terminal were recorded in the inspection database. In 351 or 80% of the 437 inspections, the Inspector did not examine the fish product inside the trailers to determine whether the processor was licensed to export the fish or whether the fish met the minimum processing and labeling requirements. Inspections of trailers at the Port aux Basques Ferry Terminal were not carried out in a representative manner in that, no inspections were carried out during 263 days of the 334 days between 1 January 2010 and 30 November 2010. Furthermore, trailers arriving and departing the Province outside of the Branch's normal business hours (i.e. 7 hours per day, 5 days a week) were never inspected.

2.7 - Real Estate Regulation

Our review identified a number of concerns with respect to real estate regulation within the Financial Services Regulation Division within the Consumer Affairs Branch of the Department of Government Services (the Department). In particular, we identified that: financial reports from real estate agents were not being monitored or analyzed; on-site examinations of real estate agent records were not being performed; and cancelled real estate licences were not being returned to the Department by the licensee as required.

We also found that with regards to the entire Financial Services Regulation Division, complaints were not adequately monitored, there were no performance measures developed (with the exception of financial services activities related to securities), policies and procedures were not adequate and Department officials could not provide updated position descriptions for all Divisional staff resulting from a reorganization in 2004.

2.8 - Residential Tenancies

Our review indicated that the Department of Government Services was not doing an adequate job with respect to dealing with claims filed by landlords and tenants. In particular, we identified that: the computerized database system was inadequate; there was no policy in place as to the length of time it should take to resolve a claim; orders were being issued after the 30-day standard; there was no evidence of management review before orders were issued; and there were issues with files. We also found a non-compliance with the *Management of Information Act* regarding file storage, identified that performance measures were not developed and were informed that staff safety was compromised because aggressive clients have to walk through the staff work area to access one of the hearing rooms.

2.9 - Diabetes in Newfoundland and Labrador

The Province has significant issues with regards to the prevalence of chronic disease risk factors, prevalence of diabetes and increasing health care costs related to diabetes. At 9.3%, the Province has the highest prevalence of diabetes (for all ages) of any jurisdiction in Canada. The Province also has the highest prevalence of unhealthy diet of any jurisdiction in Canada, the second highest prevalence of obesity and physical inactivity of any jurisdiction in Canada and incurred estimated health care costs of \$254 million in 2010 related to diabetes and will incur estimated costs of \$322 million by 2020, an increase of 27%.

Information from salaried physicians (estimated at 33% of all physicians in the Province) relating to diabetes diagnosis and treatment is not tracked. This is further exacerbated because the vast majority of the aboriginal population is serviced by salaried physicians and the aboriginal population is known to have a higher prevalence of diabetes than the non-aboriginal population. As a result, the prevalence and cost information is understated.

The Department of Health and Community Services (the Department) is not doing a good job in fulfilling its leadership role in preventing and managing chronic diseases including diabetes as evidenced by the following:

- The Department does not have either an overall Chronic Disease Prevention and Management Strategy or a strategy for any other chronic disease which would include goals and measurable performance indicators.
- There is no Province-wide diabetes registry to capture patient data such as personal information, health complications, risk factors, diagnosis of multiple diseases, and test results. As a result, the Department does not have complete statistics related to diabetes which would be necessary in order to adequately manage the disease and its resulting health complications.
- The Department is no longer coordinating primary health care teams. During 2000 to 2006, Federal funding was used to coordinate the creation of networks of physicians, nurse practitioners, public health officials, social workers and other health care providers to come together as primary health care teams (9 throughout the Province) and provide a continuum of services. It was coordinated through the Primary Health Care Office at the Department. However, when the Federal funding ended in 2006, the Province did not continue to fund the Office and as a result, the Office closed and the Department ceased its coordinating role. As a result of the lack of coordination by the Department, the Regional Health Authorities (RHAs) are concerned about the lack of consistency throughout the Province in the treatment and management of chronic diseases such as diabetes.
- With the elimination of the Department's Primary Health Care Office, the Department has not continued to provide support for the maintenance of the diabetes flow sheet which was designed to document results of patient visits.
- The Department has stopped providing funding for the Provincial Chronic Disease Collaborative Database at the Eastern RHA which was designed to collect and report information documented in diabetes flow sheets.

2.10 - Road Ambulance Services

We determined that road ambulances operating in the Province may not be safe, attendants may not have the required level of training and contract provisions with the operators are not being adequately monitored. As a result, patient care could be compromised and there may be a risk to public safety.

We examined 36 ambulance files and found:

- 8 instances where not all required semi-annual mechanical inspection forms were on file;
- 17 instances where not all required semi-annual ambulance inspection forms were on file; and
- 13 instances where, although the ambulance had been designated by the Motor Registration Division (MRD) of the Department of Government Services as inactive, claims were submitted and payments were made totalling \$156,785 relating to inactive periods. An inactive designation at MRD means that the ambulance is not licensed and is not authorized to be driven.

Thresholds (i.e. age and/or kilometres) established by the Department of Health and Community Services (the Department) are significantly higher than thresholds established for other provinces. In Newfoundland and Labrador, ambulances are required to be taken out of service after they reach either 10 years in service or 500,000 kilometres. Most provinces use a range of between 200,000 to 300,000 kilometres or between 4 and 8 years. In Quebec, ambulances are required to be taken out of service when they reach either 4 years in service or 200,000 kilometres.

In 2010, there were a total of 63,592 transports of which 5,942 (9.3%) were transports where attendants did not have the level of training required by Departmental policy. “Best efforts” relates to a concept designed by the Department which allows operators a reasonable amount of time to either have attendants trained or hire attendants with the required training. However, there was no monitoring of whether operators have made any progress towards obtaining attendants with the required training.

Although contracts allow for a Regional Health Authority (RHA) to perform on-site visits and conduct evaluations, inspections and assessments of ambulance operators and their equipment and premises, our review of the Eastern RHA indicated they had never performed this work. Furthermore, the Eastern RHA did not always determine whether the ambulance operators were in compliance with all provisions of the Ambulance Service Agreement.

We also identified weaknesses in the administration of the Road Ambulance Program. Officials at the Eastern RHA indicated that the Department sometimes directs the Eastern RHA to override established policy and in some instances overrides claims from operators which were rejected by adjudicators at the RHA. For example:

- the RHA became aware that an attendant had knowingly made false claims on the certificate application and informed the Department of their decision to not register the attendant; however, in spite of this information, the Department directed the RHA to register the attendant.
- the RHA rejected claims from an operator totalling \$17,063 for service provided during the period 10 November 2008 to 19 January 2009 because of non-compliance with established policies and procedures; however, the operator was paid \$8,403 for ambulance service even though, contrary to Departmental policy, the ambulance was not registered with the Eastern RHA.

2.11 - Review of Broadband Within Government

Five years after the *Setting the Context Report* was issued, the Department of Innovation, Trade and Rural Development (the Department) has still not prepared the Provincial broadband strategy that was the overarching recommendation contained in the Report. Although Departmental officials indicated that the strategy was being developed, they could not demonstrate this. Our review of the Government Broadband Initiative (GBI) indicated that no progress has been made with regards to operationalizing Government's fibre optic strands i.e. they are still "dark fibre" two years after the expected completion in 2008. The Department estimates that the expected cost to operationalize the fibre has increased from \$20 million to \$26 million. Furthermore, although during our initial review Government had expected to fully develop Government's telecommunications infrastructure over a 10-year period with a cost

of approximately \$200 million (excluding Labrador), we found that there is no planned timeframe and estimated completion costs for a single provider solution had increased to \$563 million (including \$120 million relating to Labrador).

The GBI concept has changed substantially, from the original objective of Government requiring the development of a private network for Provincial Government, to this no longer being a prerequisite requirement. In 2007, Government expected that it would use its own telecommunications infrastructure for a Province-wide area network for all of Government and its entities. With regards to the defrayment of development costs by savings related to the use of Government's own telecommunications infrastructure, officials from the Department were not able to make this determination because it is unknown whether the Government owned fibre optic strands will be utilized.

We found that the Department did not have a formal project plan at the inception of the GBI nor did it develop one after the original concept changed. This project plan would include such things as objectives, timeframes and estimated costs for completion. We also note that the GBI TENT (Technical Evaluation and Negotiation Team) was disbanded in February 2010, subsequent to the cancellation of the RFP by Cabinet. The decision to disband the TENT was made by the Department.

In August 2009 the Department was directed by Cabinet to conduct a survey to establish a baseline of the Province's broadband infrastructure and telecommunications services, including costs. Our review indicated that:

- no final project costs have been determined as the Department has now been directed to consult with the private sector to determine an acceptable approach for the development of the GBI, therefore there is no basis for comparison; and
- the Department has not received all required cost information from public sector entities. Four entities have not provided the requested information (Nalcor Energy, Central Regional Integrated Health Authority, the Newfoundland and Labrador Research and Development Corporation and the Newfoundland and Labrador Legal Aid Commission).

2.12 - Investments

Contrary to the requirements of the Commercialization Program at the Department of Innovation, Trade and Rural Development (the Department), the owner of two medical research entities did not contribute any of the required \$855,000 equity contributions (Entity 1 - \$655,000; Entity 2 - \$200,000). In fact, the only contribution that was made to either entity was a \$200,000 loan from Entity 1 to Entity 2 on 10 October 2008, ten months after Entity 1 received its \$500,000 Government investment. Contrary to the requirements of the terms and conditions of funding, the entities did not obtain the required Departmental approval prior to incurring additional debt, pledging assets to obtain a mortgage or transferring funds between related parties.

We found instances where the Department did not complete proper due diligence relating to the approval and assessment process, disbursement of funding and monitoring e.g. contrary to Treasury Board policy, cross departmental checking for amounts owing to Government was not fully completed; documentation was not adequate to support any of the \$5.2 million in estimated project costs (Entity 1 - \$4.0 million; Entity 2 - \$1.2 million); and the Department did not determine whether the owner of the companies received remuneration in excess of the \$250,000 annual limit (Entity 1 - \$150,000; Entity 2 - \$100,000).

The Department was not adequately monitoring the entities to determine whether the entities were in compliance with the terms and conditions of funding. In particular, the Department did not obtain the necessary documentation from either of the two entities in order to determine compliance.

2.13 - Support Enforcement Program

Our review indicated that security arrangements for access to the Support Enforcement program database by employees at the Department of Human Resources, Labour and Employment (HRLE) were not adequate. We also found inaccuracies in the Department of Justice, Support Enforcement Division's (the Division) database information. Furthermore, contrary to Office of the Chief Information Officer (OCIO) guidelines, the Division's application software and database information were contained on a single server.

Three HRLE employee accounts were accessed in excess of 250 times each, even though the 3 employees were not in receipt of income support. One account was accessed 797 times, another was accessed 456 times, while the third was accessed 256 times. The Division could not identify which HRLE employees accessed what database accounts because, although the Division maintained an audit log, it had allowed one user account to be used by all HRLE staff. In fact, this one account was used for 50,558 of the 65,808 times that HRLE employees accessed the Division's database over the period 19 March 2004 to 13 November 2009.

2.14 - Forest Management

Our review found issues with regard to how the Department of Natural Resources (the Department) was planning, monitoring and reporting on its forest management activities. Not all required annual operating plans and annual returns were on file; furthermore, the Department did not have an adequate system to monitor whether all required annual reports were received. In addition, the Department was not verifying actual harvest levels. There were also no established measurable targets for all indicators in the 10-Year Provincial Forest Management Strategy (the Strategy) and no annual report was prepared for the House of Assembly on the progress towards the implementation of its Strategy. Contrary to its 2003 Strategy, the Department neither prepared ecosystem-based planning guidelines nor reviewed the 1998 environmental protection guidelines.

We also identified that subsidies to the Corner Brook Pulp and Paper Company Limited totalling \$26.3 million, approved from 1 April 2009 to June 2010, were not adequately supported.

Furthermore, the Department was not adequately safeguarding its equipment such as digital cameras, GPS units and binoculars. Some equipment could not be located while other equipment was determined to be at the homes of employees.

2.15 - Vehicle Fleet Management

Our review identified a number of significant issues relating to the acquisition, operation and monitoring of Government's light vehicles. For example, although light vehicles were eligible to be repaired under warranty, Government sometimes opted to pay for repairs at local service stations. In addition, the Department of Transportation and Works (the Department) did not know how many vehicles were authorized to be kept at employees' residences, not all recreational vehicles could be accounted for, the number of light vehicles in the fleet had increased and there had been a shift towards more 4WD vehicles and upscale highway vehicles (cars, pickups and SUVs) for job positions. Furthermore, the Department's information system does not provide the necessary information to adequately monitor Government's light vehicles.

We also found issues relating to Government rented light vehicles such as vehicle rental costs near the cost of purchasing a new vehicle and vehicles rented for periods in excess of Government policy.

In 2002, Government owned and operated 156 - 4WD pickups and 405 - 2WD pickups while as at 19 March 2010, there were 367 - 4WD pickups (135.3% increase) and 314 - 2WD pickups (22.5% decrease). Highway vehicles are becoming larger and more powerful for job positions in which smaller highway vehicles used to be sufficient.

Contrary to the recommendation in the report on the Light Vehicle Fleet Review (the 2006 Report) to reduce the size of the fleet by 18 highway vehicles from 942 in 2006 to 924, we found that the fleet size increased by 91 highway vehicles from 942 in 2006 to 1,033 as at 19 March 2010.

According to information contained in the Equipment Management System and contrary to Government policy, 219 (21.2%) highway vehicles were operated below the 20,000 kilometre annual usage rate required to justify the purchase and continued use of a highway vehicle.

An official at the Department indicated that some Government departments appear to purchase light vehicles outside the timeframe of the standing offer arrangement (between August and December each year) in order to acquire upscale highway vehicles.

The Equipment Management System (EMS) implemented by the Department to monitor Government's light vehicle fleet does not provide the information required to properly monitor and manage light vehicles and related costs. Officials estimate that: less than 10% of all light vehicle repairs, other than at depots, were recorded; information on fuel charges was not recorded; and there were data input errors which resulted in such things as misclassifications of light vehicles, incorrect locations and incorrect kilometre readings.

As at 19 March 2010, the EMS identified that 56 (12.0%) of the 465 recreational vehicles were missing. We also found that 49 of the 56 missing recreational vehicles were assigned to the Department of Natural Resources.

I acknowledge the cooperation and assistance my Office has received from officials of the various Government departments and Crown agencies during the completion of our audits. I also thank my staff for their continued hard work, professionalism and dedication.

A handwritten signature in black ink, appearing to read "John L. Noseworthy". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

JOHN L. NOSEWORTHY, CA
Auditor General

Chapter 2 - Comments on Audits and Additional Examinations

Part 2.1

EXECUTIVE COUNCIL

Re-employment of Pensioners

Government pays pension benefits through the Province of Newfoundland and Labrador Pooled Pension Fund (the Fund) to retired public servants, teachers, uniformed services, judges and members of the House of Assembly. For the 2009 calendar year, the Fund paid pensions to 23,074 pensioners totalling \$469 million.

Government has established policies with regards to rehiring pensioners which all Government funded entities are required to comply with. If pensioned teachers are to be rehired, the hiring has to be in accordance with the *Teachers' Pensions Act*, the Teachers' Collective Agreement and Government policy. If any other pensioners are to be rehired, the hiring has to be in accordance with Government policy, applicable collective agreements and the *Public Service Commission Act*. Details of the rehiring of pensioners' policies are as follows:

1. Rehiring of Teachers

The Teachers' Pensions Act

With approval from the Minister of Finance, pensioned teachers can teach for 65 days each school year and still be entitled to their pension.

Without approval from the Minister of Finance or if a teacher teaches beyond 65 days in a school year, the pension is required to be suspended during any time the teacher is paid to teach. In these cases, the teacher is required to contribute to the Teachers' Pension Plan.

Government Policy

(a) Cabinet Direction

Cabinet direction requires that a preference be given to hiring persons other than those in receipt of a Government pension unless there are no other persons qualified to fill the position. In these cases, pensioners are entitled to their full salary and full pension; however, they are not entitled to contribute to the pension plan. Exceptions to the policy are required to be approved by Cabinet.

(b) Department of Education Guidelines

The position must be advertised in accordance with the Teachers' Collective Agreement.

There must be no non-retired teachers available who meet the basic criteria for selection under the Teachers' Collective Agreement.

The retired teachers must have received severance pay, if eligible. If no severance pay had been received then the teacher can only be employed at a school located in an isolated community and not be employed by the same school district from which they retired. In these cases, retired teachers must seek approval from the Minister of Finance to be exempted from the requirements of the *Teachers' Pensions Act*, i.e. not required to contribute to the Teachers' Pension Plan and receive their pension benefits in addition to their salary.

2. Rehiring of Pensioners Other than Teachers

Cabinet Direction

Cabinet direction requires that a preference be given to hiring persons other than those in receipt of a Government pension unless there are no other persons qualified to fill the position. In these cases, pensioners are entitled to their full salary and full pension; however, they are not entitled to contribute to the pension plan. Exceptions to the policy are required to be approved by Cabinet.

Public Service Commission Act

In order to rehire pensioners, the requirements of the *Act* have to be followed, e.g. properly advertised, fair and open competition, and reference checks.

Findings From Our Review

Our review identified a number of instances of non-compliance with the *Teachers' Pensions Act* and Government policy regarding the rehiring of pensioners. Details of our findings are outlined as follows:

Teachers

During the 2009 calendar year, 443 (2008 - 422) teachers received pension benefits and were also paid a salary. Pension benefits for these teachers totalled \$15.6 million (2008 - \$14.5 million) and salaries totalled \$5.2 million (2008 - \$4.3 million). During the year, 25 of these teachers received salaries of \$50,000 or more (highest was \$106,576), while in the 2008 calendar year, 17 teachers received salaries of \$50,000 or more (highest was \$90,748).

We found that, contrary to Cabinet direction, the Department of Education's guidelines did not require and, neither the Department nor the school districts obtained, Cabinet approval for the rehiring of pensioners.

We reviewed 138 applications submitted by school districts to the Minister of Education regarding the rehiring of pensioners for full-time teaching positions. We identified the following issues:

- Contrary to the *Teachers' Pensions Act*, none of the 138 applications were approved by the Minister of Finance; instead, they were approved by the Minister of Education.
- Contrary to the *Teachers' Pensions Act*, 60 teachers were rehired for in excess of 65 days without having their pension benefits suspended. For the period September 2007 to December 2009, these 60 teachers received salaries totalling \$4.3 million (ranging from \$5,956 to \$200,269), while receiving pension benefits totalling \$2.2 million (ranging from \$3,434 to \$93,408). One teacher received a total of \$281,838 comprised of a salary of \$188,430 and pension benefits of \$93,408 for the 28-month period.

- Six retired teachers were employed for 3 years through the use of multiple applications to the Minister by school districts (5 teachers at the Nova Central School District and 1 at conseil scolaire francophone). Over the three-year period these 6 teachers received salaries totalling \$1.2 million (ranging from \$160,950 to \$232,520), while receiving pension benefits totalling \$474,581 (ranging from \$58,826 to \$95,396). One teacher received a total of \$308,889 comprised of a salary of \$222,835 and pension benefits of \$86,054. Filling positions through the rehiring of the same retired teacher may indicate issues regarding the school districts' succession planning for these positions.
- Retired teachers were hired for 4 positions (3 at the Nova Central School District and 1 at the Eastern School District) even though there were non-retired teachers who had applied. There were at least 73 applications from non-retired teachers (24 applications for a special education position, 18 applications for a French teacher position, 17 applications for a principal position, and 14 applications for an educational psychologist position). The inability to fill positions with this much interest may indicate issues with the school districts' hiring policies and procedures.

Government Departments

We compared a database of pensioners who had been receiving a Government pension for at least a year to the general service payroll to identify pensioners who were also in receipt of a salary. Our review identified that, for the 2009 calendar year, 60 pensioners (2008 - 47) were also in receipt of a salary. Pension benefits totalled \$2.1 million (2008 - \$1.5 million) and salaries totalled \$1.3 million (2008 - \$0.8 million). During 2009, 16 pensioners received salaries of \$25,000 or more (highest was \$162,708), while in the 2008 calendar year, 14 pensioners received salaries of \$25,000 or more (highest was \$115,692).

We identified the following issues:

- Contrary to Cabinet direction, Cabinet approval was not obtained for 13 of the 60 rehired pensioners. Of the 13, 8 were at the Department of Tourism, Culture and Recreation, 4 were at the Department of Health and Community Services and 1 was at the Department of Natural Resources.

- 3 rehired pensioners received disability pensions totalling \$52,421 (2008 - \$52,421) and salaries totalling \$50,133 (2008 - \$37,217).

Monitoring

We would expect Government to monitor compliance with legislation, Cabinet direction and policies regarding the rehiring of pensioners. However, there was no evidence provided which would indicate that any monitoring was being conducted. In fact, when we requested that each department provide us with a list of employees who were also receiving a Government pension, departments did not identify all rehired pensioners. For example, for the 2009 calendar year, of the 60 rehired pensioners, departments only identified 33 rehired pensioners.

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Part 2.2

DEPARTMENT OF CHILD, YOUTH AND FAMILY SERVICES

Protective Intervention Program – Long-Term Protection

There are four service components of the *Child, Youth and Family Services Act* (the *Act*) - Family Services, Youth Services, In Care (Foster Care) and the Protective Intervention Program (PIP). The purpose of the PIP is to intervene, assess and secure the safety, health and well being of children under the age of 16 who are at risk of being maltreated by their parent(s). There are two components to the PIP: the Intake and Investigation component which we reviewed and reported on in 2009 and the Long-Term Protection (LTP) component which is the focus of this current review.

Prior to 9 April 2009, the Department of Health and Community Services had responsibility for the PIP. On 9 April 2009 the Government established the Department of Child, Youth and Family Services (the Department). This new Department assumed responsibility for the oversight of the PIP from the Department of Health and Community Services. In accordance with the *Act*, five directors at the four Regional Health Authorities (RHAs) (there are two at the Labrador-Grenfell RHA) have authority to administer the PIP. In addition to the five regional directors, there is a Provincial Director of Child, Youth and Family Services. The Department of Child, Youth and Family Services indicated that there will be a transition of client services and staff from the RHAs to the Department during 2010-11.

Section 14 of the *Act* defines what would constitute maltreatment of a child and would include such things as physical abuse, sexual abuse, emotional harm, living in domestic violence and inadequate parental supervision. It would also include the failure of the parent(s) to protect a child from the non-accidental infliction of injury or harm by another person.

The primary purpose of the LTP is to have a social worker work with the family of the child(ren) to achieve goals established for the family to ensure the safety of the child(ren) within the family environment. There are two key clinical processes that occur as part of LTP: the completion of the Risk Assessment (and the related Risk Assessment Instrument) and the Family Centered Action Plan (FCAP). The purpose of the Risk Assessment and the FCAP is to ensure that intervention provided by the social worker reduces the risk of maltreatment to the child(ren).

As a result of issues with the delivery and monitoring of the LTP component of the PIP we determined that there was an increased risk that harm may occur to children. In particular, for the 46 case files that we reviewed, 90% of the Risk Assessment Instruments relating to the maltreatment of children and 94% of the FCAPs designed to assist in the mitigation of identified risks were not completed as required by Departmental policy. In particular:

Risk Assessment Instruments not completed

A Risk Assessment is primarily a clinical assessment process that a social worker completes in order to determine the future risk of maltreatment to a child(ren). As a result, a Risk Assessment is an integral part of the PIP and is required to be completed a minimum of once every 90 days. Without a Risk Assessment, there is an increased risk that maltreatment of a child(ren) could occur. The results of a Risk Assessment are documented using a Risk Assessment Instrument.

Our review of a sample of 46 case files indicated that, during the period 1 January 2005 to 31 December 2009, a total of 464 Risk Assessment Instruments were required to be completed relating to these 46 case files. However, 416 (90%) were not completed - only 48 (10%) were completed.

Furthermore, a review of those 46 case files by Regional Health Authority (RHA) indicated that there were 17 case files where not even one Risk Assessment Instrument was completed. The details are as follows:

- Eastern - 9 of 31 samples had no Risk Assessment Instruments completed even though 109 were required.
- Central - 1 of 5 samples had no Risk Assessment Instruments completed even though 9 were required.
- Western - 4 of 5 samples had no Risk Assessment Instruments completed even though 30 were required.
- Labrador-Grenfell - 3 of 5 samples had no Risk Assessment Instruments completed even though 16 were required.

Family Centered Action Plans not completed

Family Centered Action Plans (FCAP) are designed to outline a process of family interaction, with the aid of a social worker, to reduce the risk of maltreatment of a child(ren). As a result, an FCAP is an integral part of the PIP and is required to be completed a minimum of once every 90 days. Without an FCAP, there is an increased risk that maltreatment of a child(ren) could occur.

Our review of a sample of 46 case files indicated that, during the period 1 January 2005 to 31 December 2009, a total of 464 FCAPs were required to be completed relating to these 46 case files. However, 437 (94%) were not completed – only 27 (6%) were completed.

Furthermore, a review of those 46 case files by Regional Health Authority (RHA) indicated that there were 28 case files where not even one FCAP was completed. The details are as follows:

- Eastern - 18 of 31 samples had no FCAPs completed even though 222 were required.
- Central - 3 of 5 samples had no FCAPs completed even though 23 were required.
- Western - 3 of 5 samples had no FCAPs completed even though 28 were required.
- Labrador Grenfell - 4 of 5 samples had no FCAPs completed even though 19 were required.

The Risk Management System was not fully implemented in the Labrador-Grenfell RHA

There are concerns with the Labrador-Grenfell RHA's ability to comply with the Provincial standards for LTP established by the Department. This situation exists because the RHA was not able to implement the Risk Management System in all locations as a result of difficulties in recruiting and retaining social workers.

Issues regarding the adequacy of monitoring and evaluation of the PIP

Monitoring and evaluation is an important component of managerial oversight and is useful to determine whether the PIP, including the LTP component, is functioning within the established standards. There are a number of concerns with regards to the lack of monitoring and evaluation of the LTP as follows:

- Reports that would allow the Provincial Director and the RHAs to monitor whether the LTP standards are being achieved are currently not available from the Client and Referral Management System (CRMS).
- The Provincial Director did not regularly review or evaluate any RHAs' file information during the period of our review.
- The Provincial Director did not have sufficient staff resources available to monitor and evaluate the LTP component of the PIP.

DEPARTMENT OF EDUCATION

Nova Central School District – Monitoring of Financial Operations

The Nova Central School District (the District) is responsible for the delivery of primary, elementary, intermediate and secondary educational services to approximately 12,700 students in 66 schools in Central Newfoundland. As at 30 June 2009, the District had 1,864 teachers and 526 administrative and support staff, with annual salary costs of approximately \$110.1 million. For the fiscal year ending 30 June 2009, the District had expenditures totalling approximately \$132.4 million.

Our review identified a number of issues with regard to the District's non-compliance with the *Public Tender Act* and lack of monitoring and control of its capital assets and vehicle fleet. We also identified issues with compensation and recruitment practices and expenditures related to travel claims, cell phones and other expenditures. In particular:

Public Tender Act

We identified 14 purchases totalling approximately \$627,000 where the District did not call a public tender as required. In 4 of these 14 purchases totalling approximately \$294,000 the District split the purchases to avoid the requirement to call a public tender. In total, 35 purchase orders were issued in amounts less than the threshold limits (i.e. greater than \$10,000 for goods and services and greater than \$20,000 for public works) required for tendering.

We identified 6 purchases totalling approximately \$227,000 where, although the District determined that these were sole source purchases, the required Form B was never completed. Therefore, the Government Purchasing Agency was not notified as required and consequently the House of Assembly was not informed of these 6 instances totalling approximately \$227,000.

We identified 4 purchases totalling approximately \$16,500 where the District did not obtain the required three quotes or provide documentation to show that a fair and reasonable price was obtained.

We identified 1 purchase for \$56,370 for mechanical tools where the District did not award the tender to the lowest bidder and there was no documentation to support why the lower bids were not accepted.

We identified 1 purchase for \$59,015 for music equipment which had been tendered for a specific brand and model number. While the tender also referred to “or equivalent”, in our opinion, the tender specifications were so specific that it did not meet the spirit and intent of the *Public Tender Act* to provide a level playing field. Two lower bidders were excluded because they did not meet all of the specifications.

We identified 1 purchase for approximately \$40,000 for a wheelchair lift where, although the District completed and filed a Form B as an emergency purchase, in our opinion, this was not an emergency situation. The wheelchair lift was required in September 2008; however, it was not installed until March 2009. A temporary lift had been in place since September 2008. Therefore, there was ample time for a tender call.

Monitoring and Control of Contracts

We identified a number of issues relating to the monitoring and control of contracts as follows:

- Two companies were not required to provide either workers’ health and safety clearance letters or proof of insurance coverage for the second and third year of a fire alarm inspection contract and a fire extinguisher inspection contract.
- One company was paid \$103 per month for garbage collection related to one school from March 2008, when it closed, to the period of our review in February 2010.
- The District requested two quotes for the removal, transportation and disposal of septic waste at one school. The lowest quote at approximately \$0.08 per litre (65,000 litres for \$5,095) was not accepted. Instead, the contract was awarded to a company based on \$0.09 per litre.

We note that, subsequent to the contract being awarded, the company billed and the District paid a fixed rate of \$1,495 per trip. The District also paid a \$350 tipping fee to the town council for each trip the company made. The District was not able to provide documentation to explain the pricing arrangements.

Vehicle Fleet

The District did not adequately monitor the cost and usage of its 28 service vehicles and 180 buses. Specifically:

- The District did not monitor cost and usage on any of its 208 vehicles; however, information on fuel and maintenance costs was maintained on 17 of 28 of its service vehicles. For example, we identified two instances where the fuel card slips indicated that gasoline purchases were made for two school buses with diesel engines.
- Although the District has 111 fuel credit cards, they were not necessarily assigned to a particular vehicle in order to allow monitoring of costs. In addition, during our audit, we determined that the District could not locate 8 of the 111 fuel credit cards.
- We found 26 instances of expenditures totalling \$860 inappropriately charged to the fuel credit cards. In particular, \$753 related to restaurant charges and \$107 related to one unspecified purchase at a convenience store. Restaurant charges, if claimable, should be included on employee travel claims.
- Employees were required to record the vehicle number or licence plate number, kilometre reading and initial the receipt at the time of fuel purchase; however, our review of 150 fuel credit card slips for 11 fuel credit cards identified that the required information was not always recorded.
- Fourteen of the 111 fuel credit cards were maintained at service stations which were available for use by District staff to refuel vehicles. Having fuel credit cards maintained at service stations for use by a variety of District staff increases the risk of unauthorized use.

- The District had an arrangement with various service stations whereby its vehicles could refuel and information such as vehicle number, driver name, litres purchased, total cost, date and odometer reading was recorded on a log sheet. Although these log sheets were attached to the monthly statements, they were not reviewed by the District in order to monitor fuel consumption and costs.

Sixteen of 28 District service vehicles were kept at employees' homes after working hours and on weekends. Government policy requires that Government vehicles are only to be kept at employees' homes when the employee is officially on call or it has been determined that it is advantageous for the employee to be able to leave their home to go to their work site. We found that:

- There was no documentation to demonstrate that these 16 vehicles should be kept at personal homes.
- 4 of the 16 vehicles were located in communities where a District depot was also located. As a result, it is difficult to understand why the employee would be permitted to have the District vehicle parked at their home.
- 2 of the 16 vehicles were used by management employees who drove 44 kilometres return and 70 kilometres return each day from their home to their headquarters. Government policy states that no employee shall use a Government vehicle from their home to work on a daily basis unless authorized by a department head. No such authorization was on file at the District.

Capital Assets

The District did not adequately monitor and safeguard its furniture and equipment. Specifically:

- The District did not have a policies and procedures manual to guide staff in the monitoring and safeguarding of capital assets.
- Furniture and equipment was not tagged for monitoring and control purposes.

- There was no capital asset ledger maintained. There was, however, a listing of certain computer equipment. Computer equipment purchased by the District was recorded on a listing and computer equipment purchased by the Department and provided to the District was included on a listing prepared by the Department. However, computer equipment donated through the Computers for Schools Program was not recorded on the listing. Furthermore, the District's listing was not maintained prior to February 2007 and did not include cost information. The Department's listing did not include either cost information or the date of acquisition.
- The District did not conduct periodic inventory counts to confirm/reconcile its furniture and equipment inventory.
- We determined that two of eight computers we selected for examination from the District's listing were not physically located at head office. Apparently one computer was at an employee's home while the other computer was in an employee's vehicle. Although we asked the employee to retrieve the computer from the vehicle, the employee did not comply.

As at February 2010, the District had 7 vacant schools and 1 vacant administrative building. The schools became vacant as follows: June 2004, June 2005, January 2007, June 2007 (2), March 2008 and June 2008, while the administrative building became vacant in September 2007. The District estimates that it had incurred operating costs at these vacant buildings totalling \$129,000 for fiscal year 2009. Although the District has taken various actions (e.g. contacted the denominational authorities and held discussions with the Department) to address the disposition of these vacant buildings, in our opinion, the District has not made a final plan for disposition in a timely manner.

Compensation and Recruitment Practices

We identified a number of issues with regard to compensation and recruitment practices as follows:

- The process for hiring summer maintenance employees was not documented and the District did not maintain any competition files. This was especially relevant for the period prior to February 2009 when the summer maintenance employees were not unionized and there was no requirement to hire summer maintenance employees based on seniority.
- We identified an instance where, in July 2007, a spouse of a senior maintenance manager was hired as a labourer under the summer maintenance program and no competition was held for the position. Furthermore, the person, in their application letter, indicated that they had “no employment experience as a labourer”. The District was unable to provide us with documentation to determine whether more qualified persons were available for the position.

Leave

The District was not adequately recording, monitoring and reporting leave for its management employees. In particular:

- The District did not use a standard leave form for requesting and approving leave for management employees. Instead, the District indicated that it used emails to request and approve leave; however, this documentation was not always on file to support the leave.
- The District did not record, in its financial statements, a liability of approximately \$400,000 as at 30 June 2009 relating to the paid leave of 10 senior administrative employees.

Expenditures Issues

Travel

Approval of out-of-Province travel was not consistently documented by an employees’ supervisor prior to the travel being taken. For example, for the period of our review, we identified 7 instances totalling approximately \$42,000 where 18 employees travelled out-of-Province and there was no travel authorization documentation attached to the travel claim. Upon enquiry, officials provided various travel authorization documentation such as email requests, cheque requisitions, Board approvals and budget documentation.

Cell Phones

The District was not adequately monitoring the usage and costs of cell phones. From July 2008 to December 2009, the District spent approximately \$67,624 on cell phone communications for approximately 79 cell phones. There was no listing of cell phones identifying: who the cell phone was assigned to; the cell phone number; cell phone plan information; or the issue date. Furthermore, the District had not analyzed its cell phone services to ensure that the most optimal package had been acquired. For example, we identified 7 cell phones where the cell phone plan minutes were exceeded by approximately \$3,600 for a seven month period.

Purchase Orders

Purchase orders were either not always completed or were completed after the purchase was made. Furthermore, the District did not have a centralized purchasing department and, therefore, purchases were being initiated and approved by various individuals and divisions throughout the District. As a result, the controls associated with purchase orders were not always present. This could result in unauthorized purchases.

Non-compliance with the Schools Act, 1997

Contrary to the *Schools Act, 1997*, the District did not obtain approval of the Minister of Education before entering into long-term financing leases totalling approximately \$410,000 relating to the acquisition of equipment and vehicles.

Use of Electrical Contractor

During the fiscal year ending 30 June 2009, the District paid approximately \$236,000 (273 transactions) to one electrical contractor for material and labour for various electrical work in the central west area. The District did not either tender for a standing offer for electrical services or determine whether a more cost effective solution existed i.e. hiring staff electricians for central west as for central east where there were 3 electricians and 1 apprentice electrician.

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Part 2.4

DEPARTMENT OF ENVIRONMENT AND CONSERVATION Contaminated Sites

A contaminated site is defined by the Canadian Council of Ministers of the Environment (CCME) as a location at which soils, sediments, wastes, groundwater, and surface water are contaminated by substances that are above the benchmark criteria and/or that pose an existing or imminent threat to human health or the environment. In Newfoundland and Labrador, section 26 of the *Environmental Protection Act* (the *Act*) states that if a substance that may have an adverse effect is present in an area of the environment, the Minister may designate that area as a contaminated site.

The Department of Environment and Conservation (the Department), through the Pollution Prevention Division (PPD), has responsibilities related to the management of contaminated sites and maintenance of a database for these sites which are located throughout the Province. Information used by the Department to populate the database can come from information provided by a Government Services Centre (GSC), consultants' reports made directly to the Department and from information provided by other Government departments and agencies upon request by the Department. The database includes information such as the name of the property, location, ownership, person responsible for contamination and property status (active, remediated or unknown).

The Department uses three tiers for remedial criteria, endorsed through its participation with the CCME. Tiers are used to describe the complexity of the cleanup of identified contaminated sites, with Tier 3 being the most complex. The Department has entered into a Memorandum of Understanding (MOU) with the Department of Government Services, whereby GSCs throughout the Province are responsible to perform initial inspections and identify who is responsible for the contamination.

If, based on the Department's Guidance Document for the Management of Impacted Sites (Guidance Document), the GSC determines that a consultant is required to complete an environmental site assessment, the consultant's report would categorize the cleanup of a site as a Tier 1, 2 or 3. If the cleanup of a site is categorized as a Tier 1, the GSC would ensure that proper remediation is performed. If the cleanup of a site is categorized as a Tier 2 or 3, the Department would take responsibility for ensuring that proper remediation is performed. On occasion, businesses can take it upon themselves to

hire a consultant to determine the extent of contamination and undertake a cleanup prior to being directed to do so by Government. These businesses would deal directly with either the GSC or the Department, depending on the Tier category.

As at 5 October 2010 the database included 621 active unremediated contaminated sites, of which 252 were owned by the Province, 29 were owned by the Federal government, 10 were owned by municipalities, 304 were privately owned and 26 where the owner had not been identified.

In 2002, we determined that Government was not doing a good job with regard to identifying and remediating contaminated sites in the Province. We now find that, eight years later, Government is still not doing a good job with regard to identifying and remediating contaminated sites in the Province. Government does not have a comprehensive long-term plan and timeline in place to systematically remediate contaminated sites, the database is neither complete nor accurate, there is no central budget to show how much is set aside on an annual basis for contaminated site remediation and the Department is not adequately monitoring the activities of other departments and agencies in relation to contaminated sites. Furthermore, as a result of the inadequate contaminated sites database, the Office of the Comptroller General is not being provided with complete information on which to determine the Province's environmental liabilities for inclusion in the Province's financial statements. Details are as follows:

The database does not include all contaminated sites in the Province. For example, we found 4 contaminated sites that were included in the recorded environmental liability in the Province's financial statements for the 2010 fiscal year totalling \$2.153 million; however, they were not included in the database. One site was the responsibility of the Department of Environment and Conservation (\$2.095 million) while the other 3 were the responsibility of the Department of Transportation and Works (\$58,000).

Furthermore, when contaminated sites are identified, the information captured and recorded in the database is not always complete or accurate. We found the following:

- There were no fields in the database to record total estimated remediation costs, costs incurred to date and progress to date. Furthermore, there was no field in the database to identify who was responsible to pay for remediation costs.
- We identified 26 of the 621 active sites in the database where there was no indication as to who owned the contaminated site.
- We identified 184 of the 621 active sites in the database where there was no indication as to who was responsible for contaminating the site.
- The database was not being updated on a timely basis. For example, although the Department received information on 139 sites from four departments and two Crown agencies between May and September 2010, as of the end of October 2010, the database had still not been updated.
- Some sites that were listed as open (active) on the database were closed (remediated) and sites that were listed as closed were still open. For example:
 - The Department of Transportation and Works incurred remediation costs of \$228,762 during the fiscal year 2010 on two sites (old highway depot in St. Barbe and the old Janeway Hospital site) that were already indicated as closed sites in the database.
 - A listing received from the Department of Education in November 2010 indicated that 10 of the 19 contaminated sites owned by that Department in the database had been remediated and were now closed sites even though the database indicated that all 10 sites were open.

Government does not have a comprehensive long-term plan or timeline in place to systematically remediate contaminated sites. There is no Government-wide risk-based system in order to prioritize which contaminated sites would be remediated first in the Province. Furthermore, there is no central budget to show how much is set aside on an annual basis for contaminated site remediation; instead, budgets are set at a departmental level.

As a result, Government does not have a readily available comprehensive record of contaminated sites including risk of adverse health and environmental impacts, prioritization and remediation costs. Furthermore, Members of the House of Assembly do not readily have budget information available on remediation initiatives when they review Government's estimates.

The Department is not fulfilling its leadership role in monitoring all contaminated sites in the Province. In addition to not maintaining a complete and accurate database, the Department does not adequately monitor the activities of other departments in relation to contaminated sites. While information has been requested from other departments in the past, the Department has not been proactive in making these requests on an annual basis and does not follow-up on outstanding information. In particular:

- Officials at the Department indicated that they annually request information from certain departments and Crown agencies to be used in updating their contaminated sites database. We found that, while requests were made during 2008 and 2010, no requests were made during 2009. In addition, not all departments and Crown agencies were contacted. In 2008, requests were sent to only 5 of the 17 departments, and only 1 Crown agency (Nalcor) of the 52 Crown agencies as reported in the Province's financial statements. In 2010, requests were sent to only 14 of the 17 departments, and only 2 Crown agencies (Nalcor and the Newfoundland and Labrador Housing Corporation) of the 52 Crown agencies as reported in the Province's financial statements.
- As at 31 October 2010, 9 departments had not responded to the Department's 2010 request. Furthermore, the Department did not follow-up on any of the outstanding responses.

As the Department's database does not contain any information regarding costs associated with contaminated sites, the Department cannot provide the Office of the Comptroller General with information on Provincially-owned contaminated sites. Our review indicated that liability information provided by the departments to that Office is also incomplete. Therefore, the Office of the Comptroller General has incomplete information on which to determine the Province's environmental liabilities for inclusion in the Province's financial statements. For example:

- Even though the Department of Natural Resources incurred a total of \$6.4 million over the last two years in remediation costs for four sites, and has budgeted a further \$4.2 million to be spent for three of these four sites in the fiscal year 2011, it did not provide the Office of the Comptroller General with any information for possible environmental liabilities reporting or related note disclosure. In its responses to the Department's 15 April 2010 letter and our Office's 1 October 2010 letter, the Department of Natural Resources indicated that they estimated costs totalling \$136 million to remediate two of the four sites.
- The Department of Environment and Conservation only provided the Office of the Comptroller General with information on four of the five sites which the Department is currently remediating. During the 2010 fiscal year, the Department incurred costs totalling \$128,241 on the remaining site, with an additional \$350,000 budgeted to be spent in the 2011 fiscal year.

The Government Services Centres are not performing the required tasks under the MOU and the Department's Guidance Document. We visited 2 of the 15 GSCs (St. John's, and Corner Brook) and found the following:

- At the Corner Brook GSC, required information (e.g. the Record of Site Condition and letter to the owner from the GSC outlining the owner's responsibilities) for 19 of the 20 sites reviewed and for 3 of the 20 sites reviewed at the St. John's GSC was not forwarded to the Department. We also found that the Department was not doing an adequate job in following-up to ensure that the GSCs did provide the required information.
- While the Department has not established a timeframe for the submission of consultants' reports to the GSC by either the consultant or the owner of the site, we found that the Corner Brook GSC was not always proactive in obtaining consultants' reports on a timely basis. For example, one site was first identified as being contaminated on 8 April 2009; however, as at 31 October 2010, the consultant's report had not been received. As a result, the GSC was not able to determine the extent of remediation progress or whether a site should be identified as closed.

- The Corner Brook GSC was also not always inspecting contaminated sites in a timely manner. Officials at the GSC indicated that sites requiring lengthy travel are typically investigated only when there is a known immediate health concern. Furthermore, timely site inspections may be delayed by issues with recruitment and retention of Environmental Protection Officers throughout the Province.
- The St. John's GSC and the Corner Brook GSC are using different filing systems to record spills. The St. John's GSC records spills by location whereas the Corner Brook GSC records spills by incident date. This means that the Corner Brook GSC would have difficulty in identifying a history of past contamination by location.
- None of the files at either GSC had any evidence to support a formal management review.

Although the *Environmental Protection Act* (the *Act*) indicates that the Minister may designate an area as a contaminated site, the Minister has not designated any sites in the Province as being contaminated even though the Department's database has identified 621 open (active) sites which have been impacted by contaminants. As a result, the provisions of the *Act* which apply to "contaminated sites" may not apply to sites that Departmental officials refer to as sites which have been "impacted by contaminants".

Part 2.5

DEPARTMENT OF FINANCE

Gasoline Tax

The Tax Administration Division of the Department of Finance (the Department) is responsible for administering and collecting Gasoline Tax in accordance with the *Revenue Administration Act* and the *Gasoline Tax Regulations*. Revenues from the Provincial Gasoline Tax for the year ended 31 March 2010 totalled \$156 million and represented 5.9% of the Province's taxation revenue and 2.3% of the Province's total revenue from all sources. Provincial gasoline tax is charged on all fuels at rates ranging from 0.7 to 16.5 cents per litre, depending on the type of fuel used.

The *Act* requires every wholesaler and retailer to be registered and licensed to sell gasoline in the Province. Wholesalers bring fuel into the Province and can provide retailers with fuel or consume it themselves. Retailers operate, for the most part, as service stations providing fuel directly to the consumers. As part of the licensing requirement, wholesalers must remit a monthly return and any taxes payable by the 20th of the subsequent month.

As at 31 March 2010, there were 489 retailers and 25 wholesalers registered in the Province. Of the 25 wholesalers, 20 sell to retailers, while 5 use gasoline for their own purposes. When a wholesaler consumes their own fuel, they are referred to as "self assessors" and are required to remit the appropriate gasoline tax.

Consumers may apply for a permit to purchase tax-exempt diesel fuel when a valid reason exists e.g. commercial fishing, farming or logging. As at 31 March 2010 there were 2,299 consumers with such a permit. Retailers are required to remit a monthly return if they sell tax-exempt diesel fuel.

Our review indicated that the Department was not proactive in identifying unregistered wholesalers or retailers. The Department did not adequately review wholesaler or retailer returns to determine compliance with the *Act* and performed a very limited number of audits. Furthermore, the extent of audit work performed by staff at the Division was not sufficient. Staff were not provided with any standard audit programs. Exception reports produced by the Department's database were not adequately followed-up.

Although there were instances where tax-exempt diesel fuel was used for an inappropriate purpose, the Department did not conduct sufficient audit work or follow-up on exceptions identified in monthly reports or results of fuel testing.

Wholesalers

Wholesalers are required by the *Act* to be licensed by the Department and can either provide retailers with fuel or consume it themselves. Wholesalers are also responsible for collecting and remitting all Gasoline Tax due to the Province. We found the following:

- Departmental officials indicated that they do not make any effort to identify unlicensed wholesalers as they were confident that all wholesalers had been identified. However, one wholesaler operated in the Province since at least May 2008 even though they were not licensed until 6 May 2009.

In this case, the Department was aware that this company was operating without a licence because they were identified on the monthly returns provided by another wholesaler. However, it took at least one year for the wholesaler to be licensed. No monthly returns or remittances were made by this wholesaler prior to being licensed.

- We reviewed the 135 monthly returns which were required to be submitted by 6 wholesalers for the 2009 and 2010 fiscal years. We identified 173 deficiencies as follows:
 - 38 returns had no evidence of review. In fact, no reviews of monthly returns had been completed for 5 of the 6 wholesalers since October 2009 and for the other since December 2009;
 - 48 returns were not reviewed until 3 to 10 months after the month for which the return was filed;
 - 59 returns had inadequate or missing documentation and no evidence of follow-up by the reviewer;
 - for 21 returns, the review checklist procedures were not complete; and

- 7 consecutive returns by one wholesaler from July 2009 contained calculation errors which resulted in insufficient remittance of gasoline tax. Because the July 2009 return was not reviewed until January 2010, the obvious error was not identified until then. The wholesaler was assessed \$4,515 including interest of \$885.
- The Department did not perform any planned audit work on wholesalers for the five fiscal years 2006 through to 2010. The only audit of the 25 wholesalers performed was the result of a wholesaler informing the Department that its tax-exempt status had changed and that taxes were owed. As a result of the audit, the company was assessed \$474,679, including interest of \$12,626, relating to the period December 2005 to March 2006.
- Furthermore, the Department did not have a standard audit program for wholesaler audits.

Retailers

Retailers are required by the *Act* to be licensed by the Department in order to sell fuel to consumers. Retailers selling tax-exempt diesel fuel must apply for a licence every three years and must remit a monthly return (Schedule F) showing the purchasers, the quantity of fuel purchased, and the purchasers' permit number. We found the following:

- Officials indicated that the Department was not proactive in identifying unregistered retailers. The Department did not actively seek to ensure that all retailers were licensed and had not conducted any significant search for unregistered retailers since they implemented a new database in 2001.
- The Department could not demonstrate that the extent of audit work on retailers was sufficient for the five fiscal years 2006 through to 2010. We found that, of the 153 tax-exempt retailers, only 42 were audited during the five year period. We reviewed 8 retailers where 28 audits were performed and found the following:
 - 26 of the 28 audits consisted only of reviews of monthly Schedule F returns and the files did not contain any evidence of an audit checklist or program being completed; and

- While 2 of the 28 audits were more thorough and covered a three year period, including onsite visits and client interviews, one file did not include the audit checklist while the audit checklist in the other file was not fully complete. These two audits resulted in assessments totalling \$52,977, including interest of \$15,939 and penalties of \$3,367.
- The Department did not perform any planned audit work on retailers for the 2009 and 2010 fiscal years.
- Although, the Department used an audit checklist for retailer audits, it did not have a standard audit program.

Consumers

Consumers purchase fuel from retailers. They may apply for a permit to purchase tax-exempt diesel fuel under the *Act* if a valid reason for usage exists e.g. commercial fishing, farming or logging. Consumers can only purchase tax-exempt diesel fuel with a permit and may not use the fuel for other purposes. We found the following:

- The Department was not performing sufficient monitoring of tax-exempt diesel fuel purchases. As at 31 March 2010, there were 2,299 registered consumers with permits. During the five fiscal years 2006 to 2010, the Department inspected 3,169 fuel samples of which 173 were identified as tax-exempt diesel fuel. The Department performed only 25 audits. Thirteen of the 25 audits resulted in assessments totalling \$265,812, including interest of \$90,122 and penalties of \$13,850. Furthermore, the Department could not conclude that it did sufficient work because they had not developed any standards as to the extent of testing required.
- There was no follow-up on exception reports highlighting instances where a permit number or name reported for a sale of tax-exempt diesel fuel on a retailer's return did not match the registered permit holder in the Department's database.
- Although the Department used an audit checklist for consumer audit, it did not have a standard audit program.

Part 2.6

DEPARTMENT OF FISHERIES AND AQUACULTURE

Fisheries Compliance and Enforcement

The Department of Fisheries and Aquaculture (the Department), through its Fisheries Branch (the Branch) is responsible for carrying out inspections of all fish, containers and cartons of fish, vessels and vehicles used to transport fish, and fish establishments. During the fishing season, inspections of fish are carried out from the point where fish are landed, up to the point just prior to processing. Fish processed at sea are not subject to inspection by the Branch. The Branch indicated that there were approximately 70,000 vessel landings totalling 199.9 million kilograms of fish at 425 landing sites during the 2010 fishing season. This fish was processed at 119 processing facilities located throughout the Province.

Inspections for such things as fish stowage and temperature requirements are carried out at fish landing sites, holding facilities, processing facilities and ferry terminals to determine compliance with various regulations under the *Fish Inspection Act* and Department policy. The Branch uses a number of measures to enforce the regulations, including issuing formal warnings and tickets when there are identified instances of non-compliance with ticketable offences under the regulations. The Branch has 34 Inspector positions situated in 22 offices located throughout three regions of the Province. During 2006 to 2009 there was an average of 3,660 inspections completed each year.

Our review of the Fisheries inspection and enforcement program indicated that the Department is not carrying out inspections in a manner that would maximize fish quality and food safety. We found a number of issues with regard to the inadequate planning and scheduling of inspection activity, with Inspectors not following the required inspection procedures, not completing inspection forms and not issuing warnings and tickets when instances of non-compliance were identified. In addition, the inspection database was significantly inadequate, inaccurate and incomplete. In particular, our findings included the following:

No Inspection Plan or Schedule

Our review indicated that regional offices did not prepare annual inspection work plans and inspection activity was not scheduled. Officials indicated that the timing and frequency of inspections at sites and facilities was mainly determined by the Inspector in consultation with the Inspection Supervisor, based on their knowledge of activity at landing sites and processing facilities in the Inspector's designated area. Regional Directors have little to no involvement in the planning or scheduling of inspections.

Inspection Database

During 2010, a total of 3,575 inspections were recorded in the inspection database. We found the following:

- 1,512 (42% of 3,575) – instances where Inspectors were travelling to landing sites and processing facilities and an inspection was not completed because there were no fish to inspect. Furthermore, 785 (52% of 1,512) of the failed inspections were recorded by five Inspectors.
- 1,764 (49% of 3,575) – instances where fish inspections were performed as follows:
 - 770 (44% of 1,764) inspections of fish occurred at the landing site; and
 - 994 (56% of 1,764) inspections of fish occurred at the processing facility or on a vehicle/trailer.

Officials indicated that the risk of poor fish quality is significantly reduced when there is an inspection of fish immediately upon landing as any non-compliance issues such as improper temperature, handling and stowage of fish can be addressed before the fish arrive at the processing facility. Because the Department has not established any goals or objectives in this area, it could not demonstrate whether the percentage of inspections at the landing site was appropriate.

- 191 (5% of 3,575) – phone calls to processing facilities in connection with instances of poor fish quality reported by Independent Dockside Graders. We found that, other than the phone call, there were no inspections related to 167 of these reported instances.

- 48 (2% of 3,575) – were recorded as an inspection; however, they were activities such as Fisheries development work, training and timekeeping and not related to inspection activity.
- 60 (2% of 3,575) – were inspections related to the licensing of processing facilities.

Inspections at Landing Sites

Inspections of fish at landing sites were not being carried out in a representative and risk-based manner and numerous landing sites with significant volumes of fish landings were not inspected at all. Our review indicated the following:

- Although the regional offices maintained listings of landing sites, they did not have any information readily available on the volume and/or value of fish landings for each site. Furthermore, the Branch did not have any information readily available as to the number of inspections at landing sites and inspections were scheduled based on Inspectors' personal knowledge instead of a representative and risk-based manner. We obtained information and determined that 770 inspections were carried out at 115 of 425 identified landing sites where there were 199.9 million kilograms of fish landings. We found the following:
 - No inspections were performed at 310 (73% of the 425) fish landing sites where a total of 57.2 (29% of the 199.9) million kilograms were landed. In particular, 15 sites where greater than 1.0 million kilograms of fish were landed accounted for 31.8 (16% of 199.9) million kilograms of fish. One of the 15 sites had a total of 6.6 million kilograms of fish landed.
 - Inspections were not scheduled in a representative or risk-based manner. We found that 192 (or 25% of the 770) of total inspections occurred at 16 landing sites where only 7.0 million kilograms or 4% of total fish landings occurred. Furthermore, of the 16 sites, there was 1 site where 38 or 5% of total inspections were carried out and only 690,000 kilograms or 0.3% of total fish landings occurred.

Inspections at Landing Sites and Processing Facilities

Inspections of fish at landing sites and processing facilities were not being carried out in a representative or risk-based manner with regards to the various species. We found that:

- Although Shrimp landings, which totalled 56.7 million kilograms, had 357 inspections, Cod landings, which totalled only 10.2 million kilograms, had 367 inspections. This shows that, although there were 46.5 million kilograms more Shrimp landed than Cod, the Branch is performing a disproportionate number of inspections in a lower volume species.
- The Branch inspected 2.6 million kilograms or approximately 5.0% of the Crab landings totalling 51.8 million kilograms, and inspected 0.5 million kilograms or approximately 4.9% of the Cod landings totalling 10.2 million kilograms. This shows that the percentage of Cod landings inspected was approximately the same as the percentage of Crab landings inspected, even though there was a greater food safety risk associated with Crab.
- The Branch inspected 6.3 million kilograms or approximately 11.1% of the Shrimp landings totalling 56.7 million kilograms, while just 2.6 million kilograms or approximately 5.0% of the Crab landings totalling 51.8 million kilograms were inspected. This shows that the percentage of Shrimp landings inspected was significantly greater than the percentage of Crab landings inspected, even though there was a greater food safety risk associated with Crab.
- The quality of seal pelts produced in the Province is important in order to maintain markets. Although there were approximately 67,000 seal pelts landed in the Province during 2010, the Branch only carried out one inspection of seal pelts. Furthermore, there were no inspections of approximately 33,000 seal flippers landed in the Province during 2010.

The Branch could not demonstrate that these inspection frequencies were appropriate because it had not assessed the risk and determined the inspection frequency required for each species.

Inspections of Fish Exported from the Province

Fish processors export over 90% of the average \$932 million of fish produced each year in the Province. The Branch indicated that almost all fish products are exported on trailers via the Port aux Basques Ferry Terminal where inspections are carried out to determine, among other things, whether the fish product is coming from a licensed processor and meets the minimum processing and labeling requirements. Between 1 January 2010 and 30 November 2010, there were 437 inspections carried out at the Port aux Basques Ferry Terminal. We found:

- None of the 437 inspections were recorded in the inspection database.
- The Branch could not provide information on the total number of trailers leaving the Province each year with fish products. Furthermore, although fish products can be exported out of the Province by air, cargo ship, Marine Atlantic ferries and road (Labrador), the Branch only carried out routine inspections of trailers at the Port aux Basques Ferry Terminal and ad hoc inspections of cargo at the St. John's International Airport. The Branch could not provide evidence to show the quantities, if any, that may be shipped from the Province by other means.
- In 351 or 80% of the 437 trailers the Branch indicated as being inspected, the Inspector did not examine the fish product inside the trailers to determine whether the processor was licensed to export the fish or whether the fish met the minimum processing and labeling requirements.
- Inspections of trailers at the Port aux Basques Ferry Terminal were not carried out in a representative manner. For example, we found that no inspections were carried out during 263 days of the 334 days between 1 January 2010 and 30 November 2010. Furthermore, trailers arriving and departing the Province outside of the Branch's normal business hours (i.e. 7 hours per day, 5 days a week) were never inspected.

Toll-Free Telephone Line

The Branch maintains a toll-free telephone line where Independent Dockside Graders (IDGs) can report incidents of dead/weak Crab and tainted, decomposed or unwholesome (TDU) Shrimp. At the time of our review, the Branch had recorded 491 telephone calls from IDGs in 2010, reporting instances of dead/weak Crab or TDU Shrimp.

We found that the telephone line was only monitored by an employee 7 hours per day, 3:00 pm to 10:00 pm from Wednesday to Sunday. Because Inspectors do not generally work evenings and weekends, a significant portion of calls cannot be addressed by Inspectors in a timely manner.

For example, during the period 24 April 2010 to 16 October 2010 there were a total of 491 calls. In 365 (74%) of the 491 calls, the Branch could not provide evidence as to whether an Inspector investigated the report of dead/weak Crab or TDU Shrimp. Furthermore, in 102 (21%) of the 491 calls, the Inspector called the processing facility and determined that the Crab or Shrimp had already been either disposed of or processed.

Total Inspections

During 2010, the Branch conducted 1,432 fewer inspections than in 2009. In 2010, the Branch carried out a total of 2,285 inspections (1,764 fish inspections, 24 inspections of low quality fish reported by IDGs, 60 facility inspections and 437 trailer inspections at Port aux Basques), while in 2009 the Branch carried out a total of 3,717 inspections.

Fish Inspection Forms not Completed

Inspections of fish at the landing site, including fish on vessels and trailers and in containers and holding facilities are focused on ensuring, among other things, that fish storage height and weight does not exceed the maximum allowable and that fish temperature does not exceed the maximum allowable under the *Fish Inspection Operations Regulations*. Inspectors are required to document the results of inspections at the landing site on a Quality Assessment Form (QAF). Inspections of fish at the processing facility are focused on determining the grade and/or quality of fish that is ready for processing. Inspectors are required to document the results of inspections at the processing facility on a Quality Inspection Form (QIF).

We selected 98 of the 1,764 fish inspections recorded in the inspection database and identified the following:

- The Branch could not provide us with an inspection form for 32 of the 98 inspections. Although the Branch provided a copy of the Inspector's inspection notebook in 15 of the 32 inspections, the information in the notebook was not sufficient to conclude whether an appropriate inspection was performed.
- Inspectors were not always completing the Quality Assessment Form (QAF) with the required information. For example, in 43 of the 98 inspections where a QAF was used, Inspectors did not always sample the required number of containers of fish to determine compliance with height, weight and temperature requirements of the legislation, and indicate whether they were issuing warnings or tickets when non-compliance was identified.
- Inspectors were not always completing the Quality Inspection Form (QIF) with the required information. For example, in 23 of the 98 inspections where a QIF was used, Inspectors did not always sample the required number of fish to determine compliance with policy and legislation, and indicate whether they were issuing warnings or tickets when non-compliance was identified. Although the reason for not performing all of the work was not always indicated on the inspection form, in one case, the Inspector indicated they could “*only go 20 fillet end of shift*”.

Enforcement

In 2009, Fisheries Inspectors commenced issuing tickets under the *Provincial Offences Act* for violations of provisions in the *In-Province Retail Fish Establishment Regulations* and the *Fish Inspection Operations Regulations*. The *Fish Inspection Ticket Offences Regulations* prescribes fines for approximately 170 offences in amounts ranging from \$100 to \$500 depending on the provision violated and whether the ticket is a first, second or third offence. When Inspectors identify an offence where a ticket may be issued they are required to complete an incident report and issue a formal warning or ticket. Inspectors may issue a verbal warning in some circumstances. We identified the following issues:

- The Branch had not provided Inspectors with any guidelines to assist them in determining whether a verbal warning, formal warning or ticket should be issued when a ticket-able offence was identified.
- Officials indicated they did not know whether the number and nature of formal warnings and tickets issued by Inspectors was sufficient or appropriate. In 2010, there were only 19 formal warnings and 10 tickets issued resulting from 2,285 inspections. In 2009, there were 69 formal warnings and 32 tickets issued resulting from 3,717 inspections. The majority of warnings and tickets were issued to skippers of fishing vessels for failing to comply with temperature and stowage requirements.
- Of the 130 formal warnings and tickets issued in 2009 and 2010, 78 or 60% were issued by just 7 or 23% of the 31 Inspectors on staff during the period. During this period, one inspector did not issue either a formal warning or a ticket.

Management of the Compliance and Enforcement Program

The Branch did not have a complete and accurate database. Currently, the Branch maintains a spreadsheet to capture inspection and enforcement information. Given the nature and design of the software there are limited data input controls. We experienced significant difficulty analyzing the inspection data in the database because there were many instances where Inspectors either did not enter complete data or the data entered was inaccurate. In addition, none of the 437 inspections of trailers at the Port aux Basques Ferry Terminal were entered into the system. As a result of the lack of complete and accurate information, the Department cannot adequately plan, schedule and monitor inspection activity.

The Branch has not established goals, objectives and performance measures for its inspection and enforcement activities. Furthermore, the Department's annual report for the 2010 fiscal year provided to the House of Assembly did not provide any information on the results of inspection and enforcement activity. As a result, the Department cannot conclude as to whether the inspection and enforcement activities are successful in maximizing fish quality and food safety.

Part 2.7

DEPARTMENT OF GOVERNMENT SERVICES

Real Estate Regulation

The Financial Services Regulation Division (the Division) within the Consumer and Commercial Affairs Branch of the Department of Government Services is responsible for regulating individuals and companies that provide financial products and services to the public.

The Division is responsible for licensing and registration, compliance visits, investigations and financial reporting for Provincial financial services activities such as insurance, securities, real estate, mortgage brokers and prepaid funeral services.

The Director of the Financial Services Regulation Division is appointed as Superintendent of Real Estate Agents and Salespersons under the *Real Estate Trading Act*. As Superintendent, the Director has statutory responsibility to regulate the real estate segment of the financial services industry. This would include licensing of agents and salespersons, compliance by agents and salespersons with ongoing and annual requirements, and handling customer inquiries, complaints and investigations. As at 20 October 2010 there were 92 licensed real estate agents (companies) and 646 licensed real estate salespersons.

Our review identified a number of concerns with respect to real estate regulation within the Financial Services Regulation Division. In particular, we identified that: financial reports from real estate agents were not being monitored or analyzed; on-site examinations of real estate agent records were not being performed; and cancelled real estate licences were not being returned to the Department by the licensee as required.

We also found that with regards to the entire Financial Services Regulation Division, complaints were not adequately monitored, there were no performance measures developed (with the exception of financial services activities related to securities), policies and procedures were not adequate and Department officials could not provide updated position descriptions for all Divisional staff resulting from a reorganization in 2004.

Details are as follows:

Lack of Financial Monitoring and Analysis

Although the Department has the authority under the *Real Estate Trading Act* (the *Act*), to request financial information from real estate agents and to perform financial monitoring and analysis activities (either desk reviews or on-site reviews), officials indicated that they have neither requested financial information nor conducted any reviews since 2002.

However, in January 2010 the Department required real estate agents to file unaudited semi-annual trust fund financial statements beginning for year ends on or after 31 December 2009. We found that, of the 92 licensed real estate agents in the Province, 13 indicated to the Department that their statements were not due, 7 were not required (e.g. no trust accounts), 40 provided their semi-annual statement and 32 did not respond. Of the 40 statements received, 15 were late and 3 were not complete. While in August 2010 the Department sent reminder letters to any agents who had not submitted their statements, the database included no evidence of any further action taken.

Cancelled Licences Not Returned

Our review indicated that the Department is not following up on cancelled licences that have not been returned. The *Act* indicates that a licence may be suspended, revoked or cancelled when a licence holder does not pay their annual fee, does not file an annual report, ceases employment with an agent or in cases that are in the public interest. We reviewed 30 files where a licence had been cancelled and found that only 1 licence had been returned.

Inadequate Complaint Processing and Resolution

The consumer complaints register was neither complete nor accurate. The Financial Services Regulation Division is responsible for addressing consumer complaints and either mediating a satisfactory resolution or ensuring that appropriate action (e.g. deposit returned) is taken in relation to concerns. Our review indicated the following:

- The Department had not established guidelines for the time expected to address a complaint, as measured from the time the Division receives a complaint to its resolution. During our review of the consumer complaints register in October 2010 we found that 24 of 34 (71%) registered consumer complaints (4 related to real estate and 30 related to insurance) for the 2010 fiscal year were still open. The register indicated that all 24 complaints were open for more than 6 months and 15 of the 24 were open for more than one year. Officials informed us that most of these complaints were resolved but the register was not up to date.
- The Department's consumer complaints register was incomplete in that there was no status indicated for 5 of the 34 complaints and there was no indication for 8 of the 34 complaints as to how the complaint was acknowledged (i.e. letter, email, phone or in person).
- Not all complainants were notified as to the final resolution of their complaint. We found that for 6 of the 10 closed complaints, the complainants were not notified in writing as to the final disposition of the complaint and the reason for no written notification was not indicated in the complaints register.
- The Department had not established a standard as to how much time it should take to resolve complaints which require an investigation. We found that 16 (70%) of the 23 real estate complaints investigation files being tracked as at 31 March 2010, were still open at the time of our review in November 2010. Of the 16 files, 9 were open for more than one year, 4 of which were open for more than three and a half years.
- Status reports, which could be used by management to monitor the action taken to address either registered consumer complaints or investigations, were not prepared.

No Performance Measures or Reporting Requirements

The Department had not established either performance measures or reporting requirements for the Financial Services Regulation Division (with the exception of financial services activities related to securities). Upon enquiry, the Department could not provide any performance reports for the Division, except for reports related to securities.

Policies and Procedures Not Well Defined

The Department had not developed and communicated comprehensive policies and procedures in all financial services regulation areas. We do note that there was limited information relating to several areas of financial services regulation on the Department's website.

Position Descriptions Outdated

At the time of our review in November 2010, Departmental officials could not provide updated position descriptions for all staff of the Division to reflect changes which may have occurred (e.g. employee duties, reporting relationships) as a result of a reorganization in March 2004.

DEPARTMENT OF GOVERNMENT SERVICES

Residential Tenancies

The Consumer Affairs Division, within the Consumer and Commercial Affairs Branch of the Department of Government Services, administers consumer affairs legislation to ensure a fair and equitable marketplace, protects the interests of consumers, mediates and adjudicates disputes between residential landlords and tenants, and regulates charitable and non-profit organizations' lottery fundraising activities. It also licenses and regulates the collection agencies, private investigations and security guard industries.

Within the Consumer Affairs Division, the Residential Tenancies Section (the Section) is responsible for regulating residential tenancies as it relates to the *Residential Tenancies Act, 2000*. The Section helps to mediate or adjudicate claims filed by landlords and tenants and, on average, resolves 500 claims per year. Residential tenancies services are provided throughout the Province through three offices (St. John's, Gander and Corner Brook).

Our review indicated that the Department was not doing an adequate job with respect to dealing with claims filed by landlords and tenants. In particular, we identified that: the computerized database system was inadequate; there was no policy in place as to the length of time it should take to resolve a claim; orders were being issued after the 30-day standard; there was no evidence of management review before orders were issued and there were issues with files. We also found a non-compliance with the *Management of Information Act*, identified that performance measures were not developed and were informed that staff safety was compromised. Details are as follows:

Inadequate Computerized Database System

Our review indicated that the computerized database system in use by the Residential Tenancies Section to keep track of claims received was inadequate. For example, the system was only available to the St. John's office (the Gander and Corner Brook offices maintained claims manually), the system could not generate a list of outstanding claims or monitor the status of claims through their entire life cycle, and it could not produce statistics. We also found that, although the system was implemented in 1997, there was still no systems manual.

No Policy in Place as to Length of Time to Resolve Claims

The Section did not have a policy in place as to how long it should take to resolve a claim. As a result, they could not conclude whether they were handling claims in an effective and efficient manner. We found that, during the 2010 fiscal year, it took, on average, 57 days to resolve claims. We also found 20 claims during the 2010 fiscal year that took longer than 6 months to resolve, with one taking 385 days.

Orders Issued After 30-day Standard

The Section was not always meeting its policy of issuing orders within 30 days from the date of the hearing. In the 2010 fiscal year, 126 of the 383 orders (33%) were issued after the 30-day period, ranging from 31 days to 215 days.

No Evidence of Management Review of Orders Issued

Although officials indicated that orders are reviewed for errors before being issued, we did not find any evidence of a review. We identified an instance where an order was issued with an incorrect last name.

Issues With Files

The Section did not have a policy in place on the signing out of files. The Section could not locate three of the files we requested relating to the 2010 fiscal year. We also found a file which contained information belonging to a different file.

Non-Compliance With Legislation

The Department did not comply with the requirements of the *Management of Information Act*, relating to the Residential Tenancies Section. The Department did not “...develop, implement and maintain a record management system for the creation, classification, retention, storage, maintenance, retrieval, preservation, protection, disposal and transfer of government records.” We do note that the Section has a designated records storage room where residential tenancies claims from prior years are stored. However, our review indicated the following issues relating to information management:

- no documented procedures for adding, removing or returning files;
- no employee(s) assigned to manage incoming and outgoing records, including an inventory of holdings;
- no documented procedures in place to control access to the records storage room;
- no retention schedule for records in place and, as a result, we found several boxes of old records dating back to at least 1995 which were in the records storage room; and
- personnel files were found in the records storage room with unrestricted access.

No Performance Measures or Reporting Requirements

The Department has not established either performance measures or reporting requirements for the Consumer Affairs Division. Upon enquiry, the Department could not provide any performance reports for the Division. We also noted that the annual report of the Department, tabled in the House of Assembly, did not include any information on activities of the Residential Tenancies Section.

Risk of Danger to Staff

Staff safety was compromised in that one of the two hearing rooms used by the Residential Tenancies Section can only be accessed through the staff work area. Officials indicated that this access has posed problems in the past because aggressive clients have threatened staff.

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DEPARTMENT OF HEALTH AND COMMUNITY SERVICES

Diabetes in Newfoundland and Labrador

For the year ended 31 March 2010, expenditures for the Department of Health and Community Services (the Department) totalled \$2.5 billion, an increase of approximately \$900 million or 56% from total health care expenditures of \$1.6 billion at 31 March 2005. Although some of the increase of expenditures can be attributed to the increase in costs of services and supplies, our aging population and the increasing prevalence of chronic diseases are undoubtedly contributing to the increased requests for services. At 31 March 2010, the population demographics show that the population is continuing to age which will further increase the requests for services.

The World Health Organization defines chronic diseases as diseases which begin gradually and progress over long periods of time. They include heart disease, stroke, cancer, diabetes, and chronic respiratory disease. Chronic diseases often share common risk factors such as obesity, unhealthy diet, physical inactivity, and tobacco use. The World Health Organization stated that 89% of deaths in Canada are related to chronic disease and that, if the major risk factors for chronic diseases were eliminated, 80% of heart disease, stroke and type 2 diabetes, and 40% of cancers would be prevented.

While this report refers to chronic diseases generally, the focus of this report was on diabetes and its related health complications. The International Diabetes Foundation (IDF) divides the world into seven regions and has identified the North America/Caribbean region as having the highest prevalence of diabetes in the world at 10.2% for individuals 20 years of age and over. In its 2010 atlas, the IDF indicated that Canada has a prevalence of diabetes at 11.6% for individuals 20 years of age and over. The IDF does not provide provincial prevalence data for diabetes.

Prevalence and Risk Factors Associated with Diabetes

Our review indicated that the Province has significant issues with regards to the prevalence of chronic disease risk factors, prevalence of diabetes and increasing health care costs related to diabetes as evidenced by information provided by the National Diabetes Surveillance System (NDSS) and the Canadian Diabetes Association (CDA). We found that the Province:

- has the highest prevalence of diabetes (for all ages) of any jurisdiction in Canada, estimated at 9.3% for 2010 and which is expected to increase to 14.4% by 2020. By 2020, it is expected that 73,000 persons in the Province will have diabetes, up from 47,000 persons in 2010.
- has the highest prevalence of unhealthy diet of any jurisdiction in Canada and the second highest prevalence of obesity and physical inactivity of any jurisdiction in Canada.
- incurred estimated health care costs of \$254 million in 2010 related to diabetes and will incur estimated costs of \$322 million by 2020, an increase of 27%. The Newfoundland and Labrador Centre for Health Information (NLCHI) has estimated that the average length of a hospital stay for persons with diabetes is 4 times higher than persons without diabetes.

We note that the NDSS information used to calculate the prevalence of diabetes and estimate health care costs is based on MCP records from physician claims (fee for service) and hospital files. However, information from salaried physicians (estimated at 33% of all physicians in the Province) relating to diabetes diagnosis and treatment is not tracked. This is further exacerbated because the vast majority of the aboriginal population is serviced by salaried physicians and the aboriginal population is known to have a higher prevalence of diabetes than the non-aboriginal population. As a result, the prevalence and cost information is understated.

Role of the Department of Health and Community Services

Our review indicated that the Department of Health and Community Services (the Department) is not doing a good job in fulfilling its leadership role in preventing and managing chronic diseases including diabetes as evidenced by the following findings:

- Although the Department has issued a Provincial Cancer Control Strategy, the Department does not have either an overall Chronic Disease Prevention and Management Strategy or a strategy for any other chronic disease which would include goals and measurable performance indicators. At the time of our review, the Department was working towards an overall Chronic Disease Prevention and Management Strategy.

As a result, the four Regional Health Authorities (RHAs) have undertaken their own initiatives e.g. the Western RHA has created its own chronic disease strategy while the Central RHA is currently developing its own strategy.

- There is no Province-wide diabetes registry in order to capture patient data such as personal information, health complications, risk factors, diagnosis of multiple diseases, and test results.

As a result, the Department does not have complete statistics related to diabetes which would be necessary in order to adequately manage the disease and its resulting health complications. However, the Western RHA has taken initiative to develop a diabetes registry.

- The Department is no longer coordinating primary health care teams. For the 7 years from 2000 to 2006, the Province received a total of \$9.7 million from the Federal Government to help renew their primary health care systems. The funding was used to create networks of physicians, nurse practitioners, public health officials, social workers and other health care providers to come together as primary health care teams (9 throughout the Province) and provide a continuum of services. One of these services was the treatment and management of chronic diseases such as diabetes, coordinated through the Primary Health Care Office at the Department. However, when the Federal funding ended in 2006, the Province did not continue to fund the Office and as a result, the Office closed and the Department ceased its coordinating role.

As a result of the lack of coordination by the Department, the RHAs are concerned about the lack of consistency throughout the Province in the treatment and management of chronic diseases such as diabetes.

- The Department has not implemented all recommendations contained in its 2008 report entitled *A Review of Chronic Disease Prevention and Management Services (Diabetes) in Primary Health Care Teams*. As a result, the Province has not progressed to the level at which it should be with regards to the management and control of chronic disease. In particular:

- the Department has not coordinated the roles and activities associated with primary health care with its Health Promotion and Wellness and Board Services Divisions in order to work together to address chronic disease management;
- there are issues with regard to the capturing and reporting of diabetes patient information, such as personal information, health complications, risk factors, diagnosis of multiple diseases, and test results, as follows:
 - with the elimination of the Department's Primary Health Care Office, the Department has not continued to provide support for the maintenance of the diabetes flow sheet which was designed to document results of patient visits;
 - the Department has stopped providing funding for the Provincial Chronic Disease Collaborative Database at the Eastern RHA which was designed to collect and report information documented in the diabetes flow sheets. Officials at the RHAs indicated that:
 - the reporting/viewing features of the Database were never implemented;
 - many primary health care teams are either no longer completing the diabetes flow sheets and/or not entering the data into the Database;
 - the full database was not available to all primary health care teams across the Province; and
 - the diabetes flow sheets have not been updated even though Canadian Diabetes Association guidelines have changed.
- the Department did not complete a Memorandum of Understanding to facilitate sharing data on patient visits across RHAs and the NLCHI.

- Although the CDA has estimated health care costs relating to diabetes care in the Province, albeit knowingly understated as a result of incomplete data, the Department has not made any determination of these costs. In fact, the Department has not determined the health care costs associated with any chronic diseases. Such information would be essential in order to adequately plan, manage and control initiatives. As a result of not having this information, it is more difficult for the Department to demonstrate whether any initiatives are having the desired effect.

Insulin Pumps

Since Government introduced funding for insulin pumps in 2007, an estimated 450 individuals have availed of the program. From 2007 to 2010, insulin pumps were provided to qualifying individuals up to the age of 18. None of the RHAs indicated that they have been provided with any additional resources which would be required in order to adequately manage and monitor these individuals. As a result, the RHAs indicated that they had to reallocate resources to deal with these pumps and still have some concern about the level of diabetes care that they can provide.

In March 2010, Government expanded coverage for the insulin pump therapy to include individuals aged 18 to 25 and provided an additional \$797,700 in the 2010-11 budget to cover this expansion.

It should be noted that an official at the Eastern RHA indicated that persons with insulin pumps, while representing only 1% of persons with diabetes, are consuming 50% of resources under its diabetes education program.

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Part 2.10

DEPARTMENT OF HEALTH AND COMMUNITY SERVICES

Road Ambulance Services

The Road Ambulance Program (the Program) is a critical component of the health care system and is often the first point of contact for individuals in an emergency situation. The Department of Health and Community Services (the Department) takes a high level but crucial role within the Program.

The Department is responsible for developing policies, procedures and standards, and for negotiating contracts with ambulance operators, while the four Regional Health Authorities (RHAs) are responsible for monitoring the adherence to contracts by operators within their respective regions. The Eastern RHA is responsible for adjudicating payments and enforcing the registration policies for ambulance attendants and the registration of ambulances on behalf of all RHAs.

As at 31 March 2010, there were 61 ambulance operators comprised of 28 private operators, 22 community operators and 11 operated by hospitals, with a total of 171 ambulances. In addition, there were 859 registered ambulance attendants and 63,592 patient transports during 2010. The total cost of the Road Ambulance Program for the 2010 fiscal year totalled \$45.8 million comprised of \$27.7 million for private operators, \$5.1 million for community operators and \$13 million for hospitals.

As a result of our review, we determined that road ambulances operating in the Province may not be safe, attendants may not have the required level of training and contract provisions with the operators are not being adequately monitored. As a result, patient care could be compromised and there may be a risk to public safety. This situation exists because:

- Road ambulances were sometimes dispatched with attendants who do not have the level of training required by Departmental policy. Also, officials indicated that the current training requirements in Newfoundland and Labrador were lower than the requirements in other provinces. Notwithstanding this, the Department had effectively circumvented its own training policy by introducing another policy allowing what it terms as “best efforts” by ambulance operators to provide appropriately trained attendants, thereby lowering the level of patient care available on the ambulance. “Best efforts” relates to a concept

of allowing operators a reasonable amount of time to either have attendants trained or hire attendants with the required training. However, there was no monitoring of whether operators have made any progress towards obtaining attendants with the required training.

In 2010, there were a total of 63,592 transports of which 5,942 (9.3%) were transports where attendants did not have the level of training required by Departmental policy.

- The required semi-annual mechanical inspections of road ambulances were not always provided by the operator to the Motor Registration Division (MRD) of the Department of Government Services.

We selected 36 ambulance files and found that 28 (78%) had the required semi-annual mechanical inspection forms on file for a 2-year period i.e. 4 inspection forms were required to be on file. Of the remaining 8 ambulance files, 2 were missing 2 inspection forms and 6 were missing 1 inspection form.

- The semi-annual ambulance inspections (e.g. medical equipment) that were to be completed by MRD Highway Enforcement Officers were not always performed.

We selected 36 ambulance files and found that 19 (53%) had semi-annual ambulance inspection forms on file for a 2-year period i.e. 4 inspection forms were required to be on file. Of the remaining 17 ambulance files, 3 were missing 3 inspection forms, 8 were missing 2 inspection forms and 6 were missing 1 inspection form.

- Thresholds (i.e. age and/or kilometres) established by the Department are significantly higher than thresholds established for other provinces. In Newfoundland and Labrador, ambulances are required to be taken out of service after they reach either 10 years in service or 500,000 kilometres. In Quebec, ambulances are required to be taken out of service when they reach either 4 years in service or 200,000 kilometres. Most provinces use a range of between 200,000 to 300,000 kilometres or between 4 and 8 years.

We found one example where an ambulance was in service for three months after the 10 year threshold and 3 of the 36 ambulance files we reviewed contained no evidence on file to support the in-service date.

- Although contracts allow for an RHA to perform on-site visits and conduct evaluations, inspections and assessments of ambulance operators and their equipment and premises, we found that during our review of the Eastern RHA, they had never performed this work.
- Sometimes road ambulances operated even though they had been designated as “inactive” by MRD. A common reason for an inactive designation by MRD relates to an operator not providing a copy of the required semi-annual mechanical inspection. An inactive designation at MRD means that the ambulance is not licensed and is not authorized to be driven.

We identified 13 of the 36 ambulances reviewed where, although the ambulance had been designated by MRD as inactive, claims were submitted and payments were made totalling \$156,785 relating to inactive periods.

- The Eastern RHA did not always determine whether the ambulance operators were in compliance with all provisions of the Ambulance Service Agreement in that not all provisions of the contract were monitored. For example, although contracts state that operators are required to maintain a certain number of ambulances per base, this was not being monitored by the RHA. As a result, operators could be operating with fewer ambulances than they are obligated to have, which could result in the operator not being able to respond to an emergency situation.
- The Province does not have contracts with ambulance operators based on performance and preparedness-based funding; instead, “level-of-effort” contracts with volume-based funding (i.e. based on the number of trips and kilometres driven) are used. As a result, the Department’s contracts do not place an emphasis on the quality of care provided to patients in the delivery of ambulance services.

We also identified weaknesses in the administration of the Road Ambulance Program as follows:

- Newfoundland and Labrador is the only province that does not have legislation to specifically govern the operation of road ambulances and related services. Without legislative authority, it is more difficult for the Department to regulate the Program and enforce its policies and procedures.
- Officials at the Eastern RHA indicated that the Department sometimes directs the Eastern RHA to override established policy. For example, the Eastern RHA rejected the registration of an attendant with a previous criminal conviction. However, the Eastern RHA indicated that when a clear certificate of conduct was obtained, the attendant could be registered. The Eastern RHA became aware that the attendant had knowingly made false claims on the certificate application and informed the Department of their decision to not register the attendant. Under the Department's policy, knowingly providing false information excludes an attendant from registering for a period of 10 years. In spite of this information, the Department directed the Eastern RHA to register the attendant.
- Officials at the Eastern RHA indicated that the Department sometimes also overrides claims from operators that were rejected by adjudicators at the Eastern RHA for non-compliance with established policies and procedures. For example, an operator was paid \$8,403 for ambulance service even though, contrary to Departmental policy, the ambulance was not registered with the Eastern RHA. The operator claimed a total of \$17,063 for service provided during the period 10 November 2008 to 19 January 2009. In this case, the adjudicators at the Eastern RHA rejected the claim; however, the Department directed that \$8,403 of the claim be paid.
- Although all operators submit a Patient Care Report to the Eastern RHA in support of a claim, other than the database input assessment rules and a review of exceptions by an adjudicator, there was no verification work on the legitimacy of the information included in the Report. The RHA could, for example, confirm that the visit to the hospital occurred or confirm that the official indicated on the Report had authorized the transport.

Part 2.11

DEPARTMENT OF INNOVATION, TRADE AND RURAL DEVELOPMENT

Review of Broadband within Government

In February 2005, Industry Canada, the Atlantic Canada Opportunities Agency and the Department of Innovation, Trade and Rural Development (the Department) completed a study entitled, “Setting the Context for a Federal-Provincial Broadband Strategy: The Current State of Broadband Data/Telecommunications Infrastructure in the Province of Newfoundland and Labrador (Setting the Context Report)”. The overarching recommendation contained in the Report was to develop a Provincial broadband strategy.

In November 2006, the Government of Newfoundland and Labrador announced it would “...invest \$15 million, over the next two fiscal years on the installation of a fully redundant fibre optic link which will run from St. John's to Halifax along two diverse routes to connect the national carriers into mainland Canada.” At that time, Aliant owned the only fibre optic link between St. John's and Halifax.

In July 2007, Government signed an Agreement with Persona Communications Corp. under which Government was to receive an Infeasible Right to Use eight fibre optic strands for a 20-year term, with four 20-year no-cost renewal options. Each fibre optic cable would contain from 24 to 96 strands, depending on the route. In total, the Province would own 8 strands within the fibre optic cables. This would include 6 fibre optic strands in the Northern Terrestrial Route and 2 strands in the Southern Coastal Route.

As a result of this project, the Province would essentially own the foundation (fibre optic strands) on which its telecommunications would run. However, to light and operationalize the strands, the Province would incur additional costs that were estimated, at that time, to run between \$15 and \$20 million. The network was expected to be operational during 2008. Operationalizing the fibre optic strands was one of the first steps under the Government Broadband Initiative (GBI) to fully develop Government's telecommunications infrastructure. Government officials indicated that the development of fibre optic technology in the Province would result in significant service enhancements and cost savings for Government and the business sector.

On 22 November 2006, the House of Assembly passed a resolution asking that the Auditor General “...investigate all the details and circumstances of the fibre optic deal.” In September 2007, a Report “On a Review of the ‘Fibre Optic Deal’” was provided to the House of Assembly on the results of this review.

The Report indicated that “It is important to understand that Government’s commitment to spend \$15 million on this Project relates to the acquisition of dark fibre i.e. strands of fibre that will have to be connected to sophisticated electronics before it becomes operational. It is expected that it will cost an additional \$15 to \$20 million to operationalize the fibre by 2008. Furthermore, this is only the first step of a 10-year plan which may cost up to \$200 million to fully develop Government’s telecommunications infrastructure which all Government departments and public sector entities, such as the health and education sectors, are expected to use. By using its own telecommunications infrastructure, Government expects cost savings that will defray some of the development costs; however, that remains to be seen.”

Our current review indicated that five years after the *Setting the Context Report* was issued, the Department has still not prepared the Provincial broadband strategy that was the overarching recommendation contained in the Report. Although Departmental officials indicated that the strategy was being developed, they could not demonstrate this.

Our review of the GBI indicated that no progress has been made with regards to operationalizing Government’s fibre optic strands i.e. they are still “dark fibre” two years after the expected completion in 2008. The Department estimates that the expected cost to operationalize the fibre has increased from \$20 million to \$26 million.

Furthermore, although during our initial review Government had expected to fully develop Government’s telecommunications infrastructure over a 10-year period with a cost of approximately \$200 million (excluding Labrador), we found that there is no planned timeframe and estimated completion costs for a single provider solution had increased to \$563 million (including \$120 million relating to Labrador).

The GBI concept has changed substantially, from the original objective of Government requiring the development of a private network for Provincial Government, to this no longer being a prerequisite requirement. In 2007, Government expected that it would use its own telecommunications infrastructure for a Province-wide area network for all of Government and its entities.

With regards to the defrayment of development costs by savings related to the use of Government's own telecommunications infrastructure, officials from the Department were not able to make this determination because it is unknown whether the Government owned fibre optic strands will be utilized.

In December 2007, Government issued a Request for Proposals (RFP) to light its existing fibre and to build and operate a Province-wide area network. The RFP anticipated that the estimated cost information would cover a 10-year period. An analysis of the RFP proposals prepared for the Department concluded that the estimated cost would be \$372 million (including \$120 million for Labrador), using two service providers. However, when the Department began negotiations with the service providers, one of the service providers withdrew their proposal. As a result, the estimated cost escalated to \$563 million when the remaining service provider was required to meet all deliverables. On 28 January 2010, Cabinet cancelled the RFP and directed the Department to enter into discussions with private sector service providers.

We found that the Department did not have a formal project plan at the inception of the GBI nor did it develop one after the original concept changed. This project plan would include such things as objectives, timeframes and estimated costs for completion. We also note that the GBI TENT (Technical Evaluation and Negotiation Team) was disbanded in February 2010, subsequent to the cancellation of the RFP by Cabinet. The decision to disband the TENT was made by the Department.

In August 2009 the Department was directed by Cabinet to conduct a survey to establish a baseline of the Province's broadband infrastructure and telecommunications services, including costs. Our review indicated that:

- no final project costs have been determined as the Department has now been directed to consult with the private sector to determine an acceptable approach for the development of the GBI, therefore there is no basis for comparison; and
- the Department has not received all required cost information from public sector entities. Four entities have not provided the requested information (Nalcor Energy, Central Regional Integrated Health Authority, the Newfoundland and Labrador Research and Development Corporation and the Newfoundland and Labrador Legal Aid Commission).

Part 2.12

DEPARTMENT OF INNOVATION, TRADE AND RURAL DEVELOPMENT

Investments

The Department of Innovation, Trade, and Rural Development (the Department) administers the Commercialization Program (the Program). The objective of the Program is to support the introduction of innovations by local companies in Newfoundland and Labrador. The Program is designed to provide funding to incorporated entities in order to complete development leading to commercialization of a new product, process or service.

The Commercialization Program started to provide funding in the 2007 fiscal year and has provided \$6.95 million up to the 2010 fiscal year. The maximum funding that can be provided under the Program is \$500,000 per incorporated entity. The Program is available to companies in the Province that have difficulty securing investments or loans to develop innovative products, processes or services. We reviewed two \$500,000 investments made under the Commercialization Program (Entity 1 - 19 December 2007; Entity 2 - 3 November 2008) to two medical research entities owned by the same individual.

Contrary to the requirements of the Commercialization Program, the owner of the two entities did not contribute any of the required \$855,000 (Entity 1 - \$655,000; Entity 2 - \$200,000). In fact, the only contribution that was made to either entity was a \$200,000 loan from Entity 1 to Entity 2 on 10 October 2008, ten months after Entity 1 received its \$500,000 Government investment. Contrary to the requirements of the terms and conditions of funding, the entities did not obtain the required Departmental approval prior to incurring additional debt, pledging assets to obtain a mortgage or transferring funds between related parties.

We found instances where the Department did not complete proper due diligence relating to the approval and assessment process, disbursement of funding and monitoring e.g. contrary to Treasury Board policy, cross departmental checking for amounts owing to Government was not fully completed; documentation was not adequate to support any of the \$5.2 million in estimated project costs (Entity 1 - \$4.0 million; Entity 2 - \$1.2 million); and the Department did not determine whether the owner of the companies received remuneration in excess of the \$250,000 annual limit (Entity 1 - \$150,000; Entity 2 - \$100,000).

Details of our findings are as follows:

Approval and Assessment

The established approval and assessment process was not always followed. We identified the following issues:

- Cross departmental checking for other debts owed to Government by the two entities and controlled or affiliated companies, as required by Treasury Board, was not completed for all controlled or affiliated companies.
- There was no evidence that the Department completed the required check with the Registry of Companies to determine whether Entity 1 was in good standing before it was provided with the \$500,000 Government investment. We determined that, in February 2010, this entity was not in good standing in that it had not filed its required annual return.
- The Presentation for Funding Decision forms were not signed by the Development Officer as required prior to submission to the Management Committee, and the authorization section of the forms was not completed and signed after approval of the Management Committee.

In addition, the Department did not require site visits during the approval and assessment of a proposal. Furthermore, if a site visit was made, there was no standard documentation required. Failure to perform a site visit or to document a site visit that was made, may result in not all information being available to adequately assess proposals. In this case, no site visit was made for Entity 2 and, although Departmental officials indicated that a site visit was made for Entity 1, no documentation was on file as support.

Funding

Funding was not always disbursed in accordance with either, policies and procedures, or with the terms and conditions of the investment. We identified the following issues:

- Documentation to support the proposed estimated project costs was not adequate to support any of the approximately \$5.2 million (Entity 1 - \$4.0 million; Entity 2 - \$1.2 million). Although a condition of funding requires that firm quotes be obtained prior to the disbursement of funding, we found that this was not completed.

With regard to the projected \$5.2 million in expenditures, the only support the Department obtained for the \$4.8 million relating to costs such as wages, laboratory certification, marketing, consulting, subcontracts and technical expertise were cash flow projections; however, these projections were for each entity as a whole and not specifically for each project being funded by the Department.

The only support the Department obtained for the remaining \$400,000 for equipment related to Entity 2, was an e-mail from a supplier indicating that equipment costs were expected to be in the range of between \$294,000 and \$563,000. This would not constitute a firm quote as required under the condition of funding.

- Contrary to the requirements of the Commercialization Program, the Department did not require the owner to make an \$855,000 equity contribution (Entity 1 - \$655,000; Entity 2 - \$200,000) that was required per the terms and conditions of funding, prior to the Department disbursing its total funding of \$1 million.

Entity 1

Although the Department, contrary to the requirements of the terms and conditions of funding, allowed the owner to make an equity investment of \$655,000 from an accumulation of the entity's future cash flows over a five year period, we found that the entity had negative cash flows. The entity's financial statements indicated negative cash flows from operations of \$30,000 for 2008 and \$327,000 for 2009 and, as a result, after the first two years, no funds had accumulated towards the required equity investment.

Entity 2

Correspondence on file at the Department indicated that in order for the owner to fulfill the \$200,000 equity contribution, the owner arranged a \$200,000 loan from Entity 1 to Entity 2 on 10 October 2008, ten months after Entity 1 received its \$500,000 Government investment. We would not consider this to qualify as an equity contribution from the owner.

- With regard to funding from sources other than the owner, the Department did not obtain the required written confirmation from the potential contributors for a total of \$291,100 relating to the two entities (Entity 1 - \$250,000; Entity 2 - \$41,100). Ultimately, Government provided the two entities with a total of \$1 million without the required confirmation of other funding.

Monitoring

The Department was not adequately monitoring the entities to determine whether the entities were in compliance with the terms and conditions of funding. In particular, the Department did not obtain the necessary documentation from either of the two entities in order to determine compliance. As a result, the Department could not determine whether the director's remuneration was within the annual limit (Entity 1 - \$150,000; Entity 2 - \$100,000) or determine whether the funds were used by the entities for the intended purposes. Furthermore, the Department did not obtain financial statements within the prescribed 90 days after the fiscal year end e.g. the 2007 financial statements for Entity 1 were not received until 19 August 2008 - 142 days after the prescribed 90 days.

Furthermore, contrary to the Commercialization Program manual, account status reports prepared by the Department did not include all instances of non-compliance and were not forwarded to the Department of Finance. We also found that the reports were not completed on a timely basis. For example: the 2008 report for Entity 1 was not completed until 2 October 2009 - 275 days after the company's year end and 170 days after receipt of the financial statements. The 2009 reports were not completed as of October 2010.

The two entities did not comply with all the requirements of the terms and conditions of funding. In particular, we found that: the entities incurred additional debt of \$961,763 (Entity 1 - \$389,452; Entity 2 - \$572,311); pledged assets to obtain a \$460,000 mortgage (Entity 2); and made transfers of \$600,999 between related parties (Entity 1 - \$360,564; Entity 2 - \$240,435). There was no remedy in the terms and conditions of funding to address instances of non-compliance. There was also no documentation on file to indicate that the Department took any action in these instances of non-compliance.

The terms and conditions of funding required that only “review engagement” financial statements be provided by an entity. “Audited” financial statements would provide additional assurance to the Department relating to an entity’s reported results. This was particularly important considering that the Department’s investment was to be repaid based on cash flows of the entities.

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Part 2.13

DEPARTMENT OF JUSTICE

Support Enforcement Program

The Support Enforcement Division (the Division) of the Department of Justice was established in 1989 to provide enforcement services to individuals requiring assistance in the collection of court-awarded child and spousal support. The Division acts as an intermediary between those who are entitled to receive support (Creditors) and those required to pay support (Debtors). The Province has entered into reciprocal enforcement arrangements with all Canadian jurisdictions and many international jurisdictions such as the United States of America and Australia. The Division, consisting of 17 staff, is located in Corner Brook.

The Division maintains a database to record information necessary to manage support enforcement. The Division collects personal information such as name, address, marital status, birth date, driver's licence number, social insurance number and particulars of court orders. Accounts are monitored to determine whether payments are up to date and both parties are provided with online access to payment information and/or a printed statement on request. As at 31 March 2010 there were 7,221 (2009 - 7,273) accounts in the Division's database. For the 2010 fiscal year, the Division collected approximately \$30.1 million (2009 - \$28.9 million) for distribution to Creditors.

The Division is bound by the requirements of the *Access to Information and Protection of Privacy Act* (the *Act*). The *Act* requires that reasonable security arrangements be implemented to safeguard against unauthorized access. This is particularly important given the requirements of the Department of Human Resources, Labour and Employment (HRLE) employees to access personal client information in order to manage the income support program.

Our review indicated that security arrangements for access by employees at HRLE were not adequate. We also found inaccuracies in the Division's database information. Furthermore, contrary to Office of the Chief Information Officer (OCIO) guidelines, the Division's application software and database information were contained on a single server. Details are as follows:

- There were accounts in the Division's database which were for individuals employed at HRLE that were accessed through HRLE computers. For example, 3 HRLE employee accounts were accessed in excess of 250 times each, even though the 3 employees were not in receipt of income support. One account was accessed 797 times, another was accessed 456 times, while the third was accessed 256 times.

The Division could not identify which HRLE employees accessed what database accounts because, although the Division maintained an audit log, it had allowed one user account to be used by all HRLE staff. In fact, this one account was used for 50,558 of the 65,808 times that HRLE employees accessed the Division's database over the period 19 March 2004 to 13 November 2009.

- We identified inaccuracies in the Division's database. For example, the birth dates of 28 individuals (7 Debtors and 21 Creditors) indicated that they were under the age of 12 years. In addition, the driver licence numbers of 157 Debtors were found to be invalid.
- The Division's computer system did not have the physical servers required for security as prescribed by the OCIO. Although the Division had two servers, they were mirrored and each server contained both system applications and database information. The OCIO recommends that system applications and database information be maintained on different servers.

DEPARTMENT OF NATURAL RESOURCES

Forestry Management

The Department of Natural Resources (the Department), through its Forestry Services Branch, is responsible for the management of the Province's forest resources. There are 23.7 million hectares of forested land in the Province, 7.9 million hectares of which is considered to be harvestable forest. Each year, on average, a total of 2.15 million cubic metres of forest is cut. Information on the Department's website indicated that the estimated value of the forestry sector for 2009 was \$250 million and employed approximately 5,500 people.

For forest management purposes, the Province is divided into 24 districts (18 on the Island and 6 in Labrador) and the Department has 3 regional offices (Eastern - Gander, Western - Massey Drive and Labrador - Happy Valley-Goose Bay).

In 2003, the Department prepared a 10-year Provincial Forest Management Strategy (the Strategy) which was based on the Canadian Council of Forest Ministers' Criteria and Indicators Framework. The Strategy was "*...to maintain the long-term health of forest ecosystems while providing ecological, economic and cultural opportunities for the benefit of present and future generations.*" In addition to the Strategy, landowners/licence holders (Crown or pulp and paper company) in each district are required to prepare a 5-year operating plan, an annual operating plan and an annual return.

In recent years the forest industry, especially the pulp and paper industry, has changed significantly due to decreased market demands and other external pressures. In December 2005, the mill in Stephenville closed and, in February 2009, the mill in Grand Falls-Windsor ceased operations. Furthermore, in November 2007 and March 2009 respectively, the Corner Brook Pulp and Paper Company Limited shut down 2 of its 4 paper machines indefinitely.

We found issues with regard to how the Department was planning, monitoring and reporting on its forest management activities. Not all required annual operating plans and annual returns were on file; furthermore, the Department did not have an adequate system to monitor whether all required annual reports were received. In addition, the Department was not verifying actual harvest levels. There were also no established measurable targets for all indicators

in the Strategy and no annual report was prepared for the House of Assembly on the progress towards the implementation of its Strategy. Contrary to its 2003 Strategy, the Department neither prepared ecosystem-based planning guidelines nor reviewed the 1998 environmental protection guidelines.

We also identified that subsidies to the Corner Brook Pulp and Paper Company Limited totalling \$26.3 million, approved from 1 April 2009 to June 2010, were not adequately supported.

Furthermore, the Department was not adequately safeguarding its equipment such as digital cameras, GPS units and binoculars. Some equipment could not be located while other equipment was determined to be at the homes of employees.

Details are as follows:

Planning

We found issues with regard to the planning activities of the Department relating to forest management. Our review indicated:

- In 2003 the Department prepared a 10-year Provincial Forest Management Strategy which indicated that one of the four strategic directions i.e. ecologically-based forest management could not be fully implemented because guidelines had not been established and information gaps existed (e.g. possible future impacts on the forest from natural disturbances such as fires or insect infestation). The Strategy required that by 31 December 2004, ecosystem-based planning guidelines be completed after public consultation sessions. In addition, the 1998 environmental protection guidelines were required to be reviewed; however, as at November 2010, neither had been completed.
- Although *Sustainable Forest Management Planning Regulations* have been developed by the Department to provide for a new ecosystem-based planning framework, these regulations have yet to be adopted and gazetted.

- The Department did not establish measurable targets for all indicators in its Strategy which was issued in 2003. For example, although there was an indicator relating to the kilometres of hiking, cross-country skiing and snowmobile trails, there was no target as to the expected kilometres, and, although there was an indicator relating to employment for each forest-based activity, there were no employment targets established.
- The Department did not prepare an annual report on the progress towards the implementation of the Strategy. Instead, the Department prepared an annual update report on the various actions planned in the Strategy; however, this update report did not include all information expected in an annual report (e.g. did not report on the outcomes related to actions taken on any of the 89 areas contained in the Strategy) and it was used for internal purposes only i.e. it was not provided to the House of Assembly.
- The Department was not meeting its objective of completing aerial photography of 10% of the Province's island land base every year (i.e. photographed 100% in 10 years) and interpreting and digitizing the photography into its information system within 18 months after the photographs were available. For example:
 - None of the 18 districts on the Island had been completely re-photographed within the 10-year timeframe. The delay between the last two times aerial photography was conducted ranged from 13 years to 26 years.
 - There were 15 districts where it took in excess of the 18 month policy to interpret and digitize the latest aerial photography. In these cases, it took on average 3.37 years (40 months).
 - One of the 6 Labrador districts had never been photographed while none of the remaining 5 districts had ever been completely photographed.

Monitoring

We found issues with regard to the monitoring activities of the Department relating to forest management. For the most part, the Ecosystem Management Division (the Division) in Corner Brook is responsible for the Department's monitoring activities related to forestry plans and reports. Our review indicated that:

- Contrary to the requirement of the *Environmental Assessment Act*, which requires that 5-year operating plans be submitted 180 days prior to the plan's start date, none of the 29 plans (22 Crown plans and 7 company plans) currently required were submitted within the 180 day requirement. In fact, 1 district had never submitted a plan and another district submitted its plan 2 ½ years into its 5-year planning period.
- Although the Division maintained a spreadsheet to track annual operating plans for all districts, the spreadsheet could not be used to adequately monitor compliance with submission deadlines because it did not capture the date.
- The Division did not maintain a spreadsheet or system to track annual returns from all districts. The only information the Division could provide was from the Eastern region which maintained its own spreadsheet to monitor annual returns for its districts. However, we found that the information provided was not complete in that not all information on harvest levels was provided for all the districts for 2006 to 2009. In addition, the spreadsheet could not be used to adequately monitor compliance with submission deadlines because it did not capture the date.
- When we requested annual operating plans and annual returns, they were not readily available at the Division. For example:
 - 16 of the 50 annual operating plans required to be submitted by the districts to the Division covering the 2009 and 2010 calendar years were not on file at the Division when we commenced our work. Ten of the 16 were subsequently provided by the districts. Without these annual operating plans, the Division could not determine if the districts were in line with the approved 5-year operating plans.

- 71 of the 72 annual returns required to be submitted by the districts to the Division relating to Crown land covering the 2006 to 2009 calendar years were not on file at the Division when we commenced our work. Sixty of the 71 were subsequently provided by the districts. Without these annual returns, the Division could not, for example, determine whether actual harvest levels were within the approved limits.
- Actual harvest levels as reported by the companies or licence/permit holders were not verified using available secondary sources of information such as scaling reports, production reports, and load slips.
- Although the load slip system was used to confirm the legality of wood harvested and transported, we found the following issues:
 - load slips were not always properly accounted for by the districts;
 - load slips did not always document required information such as the amount of wood transported, signatures, and origin and destination of the wood; and
 - Forestry officials rarely performed either field inspections or roadside checks to determine whether load slips were being used.

Expenditures

Inventory Controls

We identified a number of weaknesses with regard to the safeguarding and recording of equipment inventory totalling approximately \$173,000. The equipment inventory included items such as GPS units, digital cameras, binoculars and scopes. We also selected 37 items from purchase invoices for testing and identified a number of issues. Our review indicated the following:

- annual inventory counts were not performed to verify the existence and condition of inventory items;

- 4 items, which met the Department's recording threshold, were not recorded in the inventory listing;
- 24 items were recorded on the inventory listing; however, the information recorded was not complete in that there was no serial number for 17 items, no Government asset number for 23 items and no assigned individual/location listed for 8 items; and
- not all inventory items could be located as follows:
 - 2 items could not be located (1 GPS costing \$265 and 1 digital camera costing \$100);
 - 5 items were not located at the time of our enquiry in November 2010; however, they were later presented for inspection. Officials indicated that: 1 sighting scope costing \$2,549 was located - 1½ months after our enquiry - in a box behind the door of a photocopier room; 1 camera costing \$188 was located at an employee's home; 1 tripod costing \$385 was located in an employee's vehicle (this employee did not know the whereabouts of the tripod when we first enquired); 1 camera costing \$179 was located; however, it was not with the assigned employee; and, 1 camera costing \$188 was on loan to a Clerk Typist III since 25 June 2010 and located at the employee's residence. We also identified that this Clerk Typist III had a GPS unit on loan since 7 April 2010. It is questionable why this Clerk Typist III (not responsible for field operations) would have field equipment; and
 - 30 items were located; however, due to either the absence of Government identification tags or serial numbers not recorded for 19 of these items, we could not determine whether the assets located were the assets selected for inspection.

Assistance to a Pulp and Paper Company

Since 1 April 2009, the Department has provided or had approved assistance to the Corner Brook Pulp and Paper Company Limited totalling \$26.3 million through three agreements. We identified the following issues:

- **\$1 million** - cost-shared agreement to subsidize the purchase and transport from the Northern Peninsula a maximum of 40,000 cubic metres of wood at a contribution price of \$25 per cubic metre as part of an economic study to convert wood to an alternate green fuel source. Our review identified that:
 - The purchase and transportation of wood began before the agreement was signed. Work commenced in May 2008 and finished in January 2009; however, the contribution agreement was not signed by the Minister until 27 March 2009.
 - Although the agreement was identified as a cost-shared arrangement, there was no identification as to what the Province's percentage would be and there was no documentation on file at the Department to support the basis on which the Province's \$25 per cubic metre contribution was calculated.
 - Although the agreement required that the company provide the Minister with a report on all activities under the agreement, the Department did not require the company to provide details as to whether cost/energy savings materialized, or if burning wood was a viable alternate green fuel source.
- **\$13.3 million** – agreement to provide financial assistance in the form of releasing the company from its share of forest management initiatives relating to silviculture, insect control and forest inventory, exempting the company from paying land management tax and reimbursing the company for two projects (biomass project and resource road project). In exchange, the Crown either received or was extended harvesting rights in 7 districts for 9 to 27 years. Our review identified that the Department could not provide any evidence as to how the new or extended harvesting rights were valued at \$13.3 million.
- **\$12 million** – agreement to provide \$12 million (\$6 million to be paid on 30 June 2010 and \$6 million to be paid on 30 June 2011) in exchange for the assignment to the Province of all or partial rights, titles, duties and obligations under timber licences comprised of approximately 447,400 hectares of land base in 6 districts for the remaining term of the licences.

Our review identified that a separate land valuation was not prepared in order to accurately determine the land value. Instead, the price was determined using \$20.06 per hectare, the price used in a 1994 land sales agreement with the company, indexed to 2010 dollars i.e. \$26.82.

DEPARTMENT OF TRANSPORTATION AND WORKS

Vehicle Fleet Management

In 1979, Cabinet assigned the responsibility for monitoring and managing Government's light vehicle fleet (comprised of cars, vans, 2WD pickups, 4WD pickups, SUVs, ATVs and snowmobiles) to the Department of Transportation and Works (the Department). To fulfill this responsibility, a Vehicle Fleet Management Branch (VFM Branch) under the Equipment Maintenance Division was established.

In 2003, Government established an interdepartmental Light Vehicle Acquisition Committee to oversee and make recommendations to Treasury Board on issues related to light vehicle acquisition. Effectively, the Committee has to provide its approval before any light vehicle can be either purchased or rented for periods in excess of 30 days. The Committee is chaired by the Department of Finance's Director of Budgeting and has three other members - the CEO of the Government Purchasing Agency, the Assistant Deputy Minister of Municipal Affairs, and a Program and Policy Development Specialist with the Department of Natural Resources.

As at 19 March 2010, there were 1,498 light vehicles operating in 14 Government departments and The Rooms Corporation. These light vehicles were comprised of 191 - cars, 107 - vans, 314 - 2WD pickups, 367 - 4WD pickups, 54 - SUVs, 198 - ATVs and 267 - snowmobiles. The estimated cost of Government's light vehicle fleet was approximately \$28 million. Further details on Government's light vehicle fleet are included in Figure 2.

In addition to purchasing light vehicles, Government also spends significant amounts of money on rentals (defined as light vehicles rented for periods in excess of 30 days). For the 2010 fiscal year, a total of \$1.7 million was spent to rent 154 light vehicles. Further details on Government's rented light vehicles are included in Figure 9.

Government's light vehicle fleet has been the subject of two reviews, one in 2003 (Light Vehicle Fleet Management Review) and one in 2006 (Light Vehicle Fleet Review). These reviews were conducted by intergovernmental teams created by Treasury Board to analyze the management of the light vehicle fleet and provide recommendations for the improvement of VFM Branch operations.

Our review identified a number of significant issues relating to the acquisition, operation and monitoring of Government's light vehicles. For example, although light vehicles were eligible to be repaired under warranty, Government sometimes opted to pay for repairs at local service stations. In addition, the Department did not know how many vehicles were authorized to be kept at employees' residences, not all recreational vehicles could be accounted for, the number of light vehicles in the fleet had increased and there had been a shift towards more 4WD vehicles and upscale highway vehicles (cars, pickups and SUVs) for job positions. Furthermore, the Department's information system does not provide the necessary information to adequately monitor Government's light vehicles.

We also found issues relating to Government rented light vehicles such as vehicle rental costs near the cost of purchasing a new vehicle and vehicles rented for periods in excess of Government policy. Details are as follows:

Acquisition

- Contrary to the recommendation in the report on the Light Vehicle Fleet Review (the 2006 Report) to reduce the size of the fleet by 18 highway vehicles from 942 in 2006 to 924, we found that the fleet size increased by 91 highway vehicles from 942 in 2006 to 1,033 as at 19 March 2010.
- In 2002, Government owned and operated 156 - 4WD pickups and 405 - 2WD pickups while as at 19 March 2010, there were 367 - 4WD pickups (135.3% increase) and 314 - 2WD pickups (22.5% decrease). Highway vehicles are becoming larger and more powerful for job positions in which smaller highway vehicles used to be sufficient. See Figure 6.
- An official at the Department indicated that some Government departments appear to purchase light vehicles outside the timeframe of the standing offer arrangement (between August and December each year) in order to acquire upscale highway vehicles. In the 2010 fiscal year, 37 light vehicles costing approximately \$800,000 and in the 2009 fiscal year, 76 light vehicles costing approximately \$1.5 million were acquired outside the standing offer timeframe. To illustrate, a Ford Expedition SUV was purchased on 18 March 2010 for the High Sheriff's office and cost \$62,000 compared to the average cost of approximately \$40,000 for similar, less upscale highway vehicles.

- According to information contained in the Equipment Management System and contrary to Government policy, 219 (21.2%) highway vehicles were operated below the 20,000 kilometre annual usage rate required to justify the purchase and continued use of a highway vehicle. This demonstrates the limitations of mileage estimates by departments in support of proposed acquisitions. See Figure 5.

Operation

- VFM Branch officials indicated that manufacturers' warranties were not monitored within the light vehicle fleet. In at least some cases, departments have opted to pay the full price for warranty repairs at local service stations. For example, a 2005 Dodge SX 2.0 had an alternator repaired for \$210 which is covered under the 7 year / 115,000 kilometre power train warranty. We note that this issue was also raised in the 2006 Report.
- The Department could not provide details as to which highway vehicles had been approved to be taken by employees and parked at their residence after normal working hours in order to reach job sites outside of their headquarters. Officials at the Department expressed similar concerns as those identified in the 2006 Report, which stated that *"It is suggested that most of these 'approvals' benefit the employee rather than the Department as well as lead to unauthorized after hours personal use of some vehicles."*
- Although the Department maintains an electronic file of drivers' licence numbers relating to Government employees who drive Government light vehicles, the file is neither current nor accurate. Departments only provide licence information when an employee is authorized to drive a Government light vehicle and do not report back when the employee either terminates employment or ceases to drive a Government light vehicle. Furthermore, the Department only submits the licence information on a semi-annual basis to the Motor Registration Division (MRD) to check for licence suspension. Other than notifying a department of an issue by way of letter, there is no additional follow-up as to the final disposition of issues identified.

In November 2010, the Department submitted information from its electronic file to MRD and a total of 34 drivers were identified as not having a current, valid driver's licence (suspended). This result was not unexpected given the 2006 Report, wherein it was noted that "*Historically, VFM has found an alarming number of individuals who do not have a valid driver's licence.*"

- Contrary to the 2006 Report recommendation that the optimum highway vehicle life be the lesser of either 8 years or 250,000 kilometres, we identified 127 highway vehicles that had exceeded their optimum useful life. As a result, it is likely that Government is incurring additional costs to maintain and operate these highway vehicles. It is difficult to identify increased operating costs given the limitations in the Department's Equipment Management System.
- Contrary to Government policy, we identified 10 highway vehicles that were operating without the required markings, i.e. Government licence plates (8), vehicle number (2) and Government logo (1).

Monitoring

- The Equipment Management System (EMS) implemented by the Department to monitor Government's light vehicle fleet does not provide the information required to properly monitor and manage light vehicles and related costs. We found that information entered into the EMS was not timely, complete or accurate. For example:
 - officials estimate that less than 10% of all light vehicle repairs, other than at depots, were recorded;
 - information on fuel charges was not recorded;
 - there were data input errors which resulted in such things as misclassifications of light vehicles, incorrect locations and incorrect kilometre readings;

- although Government policy requires that kilometre reports be submitted every 3 months, departments had not provided this information for a significant number of assigned light vehicles. It was also noted that for kilometre readings that were provided, the Department sometimes did not enter the readings for as long as a year after they were received; and
- the current status (i.e. active, inoperable or disposed of) of the light vehicles was not always accurate. For example, we found items recorded as active in the Government department's inventory records even though the EMS had identified the light vehicle as being inoperable or disposed of.

Although Government policy requires departments to forward light vehicle information to the Department, for the most part, departments are not providing the information. Furthermore, the Department does not actively pursue the information from departments.

- As at 19 March 2010, the EMS identified that 56 (12.0%) of the 465 recreational vehicles were missing. We also found that 49 of the 56 missing recreational vehicles were assigned to the Department of Natural Resources.

We note that the 2006 Report referred to 80 missing recreational vehicles and indicated that *"To have this number of machines unaccounted [for] is unacceptable and increased monitoring of both ATVs and snow machines is strongly recommended."* The Report noted that 67 of the 80 missing recreational vehicles were assigned to the Department of Natural Resources and the Department of Fisheries and Aquaculture.

Rented Vehicles

- The Light Vehicle Acquisition Committee is, contrary to Government policy, approving rentals for periods in excess of 5 months. In the 2010 fiscal year, 107 of 154 (69.5%) rentals were approved for periods of 6 months or greater. For example, two 4WD pickups were approved for rental for a period of 18 months at a cost of \$13,725 each.

- We identified 13 rentals where rental costs were near the purchase price of a similar light vehicle in the fleet. For example, in the 2010 fiscal year, one pickup was approved for rental for a 12 month period at a total cost of \$19,140, while Government could have purchased a similar vehicle for an additional \$2,000. The 2006 Report indicated that “...*the annual cost of rentals may be better spent by obtaining vehicles in another process. Vehicle Fleet Management should undertake a detailed analysis of the rentals in the past five years to see if: - Similar rentals each summer would be more cost effective to assign a government vehicle instead of an annual rental...*” The Department conducted this analysis for the 2010 fiscal year and forwarded the results to Treasury Board for consideration. A more detailed analysis was ordered to explain the benefits and drawbacks of renting long-term and this was expected to be completed by 31 December 2010.
- The Department has limited oversight with regard to rented light vehicles. Monitoring of these light vehicles is limited to a manual file that lists the rentals engaged for the fiscal period and the operating costs associated with the use of Government credit cards. The Department does not request information from departments on data for rented light vehicles, such as repair costs or kilometre reports.

Chapter 3 – Summary of Updates on Prior Years' Report Items

The Office of the Auditor General is committed to promoting accountability and encouraging positive change in the stewardship, management and use of public resources. To this end, each year my Office conducts reviews of Government departments and Crown agencies which result in findings and recommendations. Our recommendations are designed to address weaknesses and/or improve processes and, therefore, it is important that Government consider them and take corrective action.

Each year my Office reports on the status of the implementation of recommendations made in prior Reports to the House of Assembly on Reviews of Departments and Crown Agencies (Annual Reports). My objective is to monitor and report on the degree to which positive change has occurred as a result of the implementation of recommendations contained in my prior Annual Reports. Monitoring the implementation of past recommendations commences approximately two years after a Report is published and continues until I am reasonably satisfied that issues have been adequately addressed or are no longer applicable. My goal is that at least 80% of recommendations will be acted upon.

This year, included in this Report is a summary of my observations as to the progress made as of 31 March 2010 on the implementation of my recommendations contained in Annual Reports from 2004 through to 2008. In recognition of the trend across Canada to be environmentally conscious and issue reports electronically, details on the findings related to individual reports are only available on our website at www.ag.gov.nl.ca/ag/priorupdates.htm.

Overall Conclusion

I am pleased that entities have generally agreed with our recommendations and have taken reasonable steps to implement change. It is encouraging to find that, of the 193 recommendations monitored in this Report, 172 recommendations (89.1%) have been acted upon. As a result, our goal of having at least 80% of our recommendations acted upon has been met.

With regards to 21 recommendations (10.9%), officials at 10 entities had not taken action to implement the recommendations. I encourage these officials to revisit the recommendations and reconsider their position.

Recommendations Identified for Monitoring

To compile this update on prior years' report items, I reviewed Annual Reports from 2004 to 2008 to determine, based on information provided by the entities in prior reports, which recommendations required further follow-up. My review identified 193 recommendations from 34 report items which required further follow-up.

The distribution of the 193 recommendations, by entity, over each of the five years is outlined in Figure 1:

Figure 1

Distribution of Recommendations by Entity 2004 to 2008

Entity	2004	2005	2006	2007	2008	Total
Executive Council		1			25	26
Department of Education				4	18	22
Department of Environment and Conservation		1				1
Department of Fisheries and Aquaculture					17	17
Department of Government Services	1		3	5	10	19
Department of Health and Community Services				5		5
Department of Human Resources, Labour and Employment					3	3

Entity	2004	2005	2006	2007	2008	Total
Department of Innovation, Trade and Rural Development				1		1
Department of Justice			4	17	3	24
Department of Municipal Affairs				1		1
Department of Natural Resources					24	24
Department of Tourism, Culture and Recreation			1			1
Department of Transportation and Works				3		3
Fire Commissioner's Office	2					2
Labrador-Grenfell Regional Health Authority				5		5
Le Conseil Scolaire Francophone Provincial de Terre-Neuve et du Labrador					9	9
Memorial University of Newfoundland		3				3
Multi-Materials Stewardship Board (MMSB)					20	20
Newfoundland and Labrador Human Rights Commission					7	7
Totals	3	5	8	41	136	193

As Figure 1 shows, the 193 recommendations related to 19 separate entities. The 193 recommendations were contained in the following Annual Reports:

- 136 recommendations in 16 report items from the 31 March 2008 Annual Report;

- 41 recommendations in 10 report items from the 31 March 2007 Annual Report;
- 8 recommendations in 3 report items from the 31 March 2006 Annual Report;
- 5 recommendations in 3 report items from the 31 March 2005 Annual Report; and
- 3 recommendations in 2 report items from the 31 March 2004 Annual Report.

In February 2010, correspondence was sent to applicable Deputy Ministers and Chairs/Chief Executive Officers of Crown agencies requesting that they provide information related to the status of implementation for recommendations related to their entity. Following receipt of a written response, my staff met with senior officials to review the information provided. Based on our review and assessment of this information, we determined whether each recommendation had been acted upon (i.e. either fully implemented or partially implemented) or had no implementation action taken.

Overall Assessment

Our follow-up work consisted primarily of enquiries and discussions with management officials at Government departments and Crown agencies, and a review of selected supporting documentation. This was not an audit, and accordingly, we cannot provide a high level of assurance that the actions described by entity officials have resulted in the recommendations being implemented effectively.

I found that, of the 193 recommendations:

- 172 (89.1%) have been acted upon as follows:
 - 79 - we agree that these recommendations have been fully implemented;
 - 79 - we agree that these recommendations have been partially implemented;

- 3 - we agree that these recommendations have been partially implemented; however, given the entities' position on these recommendations, further follow-up would be of no further benefit. Therefore, we will not follow-up on these recommendations (Part 2.5, recommendation number 5; Part 2.7, recommendation number 4; Part 2.31, recommendation number 2 - details on these 3 recommendations are included in Figure 2); and

- 11 - we agree that some implementation has occurred; however, we disagree with officials at the entities regarding their assessment of the extent of the implementation. Given the entities' position on these recommendations, further follow-up would be of no further benefit. Therefore, we will not follow-up on these recommendations. (Part 2.7, recommendation numbers 1 and 7; Part 2.11, recommendation number 4; Part 2.15, recommendation numbers 2, 3, and 10; Part 2.21, recommendation numbers 1, 2, 3 and 4; Part 2.22, recommendation number 3 - details on these 11 recommendations are included in Figure 2).

- 21 (10.9%) had no implementation action taken as follows:
 - 14 had no implementation action taken. We will follow-up on these recommendations (Part 2.9, recommendation numbers 1 and 2; Part 2.12, recommendation numbers 1 and 4; Part 2.18, recommendation number 7; Part 2.20, recommendation number 3; Part 2.22, recommendation number 5; Part 2.25, recommendation numbers 11, 12, 13, and 15; Part 2.29, recommendation number 1; Part 2.32, recommendation numbers 1 and 5);

 - 1 had no implementation action taken; however, given the entities' position on this recommendation, further follow-up would be of no further benefit. Therefore, we will not follow-up on this recommendation (Part 2.27, recommendation number 6 - details on this recommendation is included in Figure 2); and

- 6 had no implementation action taken and we disagree with officials as to why they will not implement these recommendations. However, given the entities' position on these recommendations, further follow-up would be of no further benefit. Therefore, we will not follow-up on these recommendations (Part 2.25, recommendation number 8; Part 2.28, recommendation numbers 1, 2 and 3; Part 2.32, recommendation numbers 3 and 6 - details on these 6 recommendations are included in Figure 2).

As a result, our goal of having at least 80% of our recommendations acted upon has been met.

No Implementation Action Taken

My review indicated that there were 21 (10.9%) of the 193 recommendations at 10 entities where officials had not taken action to implement the recommendations. Of the 21 recommendations, we determined that there would be no benefit for my Office to follow-up on 7 recommendations because the entities clearly indicated that the recommendations will not be implemented. The remaining 14 will be followed-up by my Office because we are of the opinion that some action will take place.

No Further Follow-up Planned

Figure 2 contains details of the 21 recommendations (14 with some implementation action taken and 7 with no implementation action taken) where, based on the entity's position on the recommendation, further follow-up by this Office would be of no benefit. Therefore, no further follow-up is planned by my Office.

Figure 2

No Further Follow-up Planned by the Office of the Auditor General

Entity	Description
Part 2.5 Conseil Scolaire Francophone Provincial de Terre- Neuve-et-Labrador	Recommendation Number 5 Officials at the School District indicated that they agree with the recommendation and are developing the purchasing expertise of one board office employee, with only isolated incidents of non-compliance identified.

Entity	Description
<p>Part 2.7 Department of Education Monitoring Air Quality in Schools</p>	<p>Recommendation Number 1</p> <p>Department officials indicated that they did not consider it necessary to monitor the results of all annual inspections. However, we maintain that our recommendation is for the Department to have a process in place to be informed of and to review all issues that relate to air quality only.</p> <p>Recommendation Number 4</p> <p>Department officials indicated that the recommendation had been partially implemented. Schools now have a sufficient number of operable windows. However, installing mechanical ventilation systems in schools that do not have systems currently installed would be cost prohibitive and disruptive to students.</p> <p>Recommendation Number 7</p> <p>Department officials indicated that they do not intend to extend the enhanced inspection to all schools but instead intend to carry out building envelope inspections. However, in our opinion, building envelope inspections will not cover all areas included in the enhanced inspections and there is no plan by the Department to carry out the building envelope inspections on all schools periodically.</p>
<p>Part 2.11 Multi-Materials Stewardship Board (MMSB) Used Beverage Containers</p>	<p>Recommendation Number 4</p> <p>MMSB officials indicated that they are exempt from having to comply with the <i>Public Tender Act</i> when dealing with these contracts. It is our opinion that the contracts in question are subject to the requirements of the <i>Public Tender Act</i> as they are for the services of the Depot and not for the resale of the used containers.</p>

Entity	Description
<p>Part 2.15 Department of Fisheries and Aquaculture Aquaculture Inspections</p>	<p>Recommendation Number 2</p> <p>Department officials indicated that they have revised the Site Inspection and Directive Report to address some of the weaknesses noted in our report. However, we maintain that the Department has not revised the Report to address all the weaknesses noted. The Department informed us that it will not revise the inspection report to address the remaining weaknesses noted in our report because it is now satisfied with the level of documentation in the inspection files.</p> <p>Recommendation Number 3</p> <p>Department officials indicated that this recommendation has been fully implemented. While the hand delivery of Site Inspection and Directive Reports to site operators, or their authorized officials, is an improvement over using regular mail to deliver the Reports, we maintain that the Department is still not ensuring that site operators acknowledge inspection results because there is no requirement that the site operator, or their authorized official, sign the Site Inspection and Directive Report upon receipt. The Department informed us that it is satisfied with the manner in which inspection results are delivered to site operators.</p> <p>Recommendation Number 10</p> <p>Department officials indicated that they are sufficiently testing nets and that there is adequate inspection documentation to support the net testing. However, we maintain that the Department has not revised Cage System Audit Reports to indicate that all of the nets in the water were tested, of the appropriate age and were properly treated with UV and anti-foulant protectant. Furthermore, the Department has not demonstrated that annual net inventories submitted by site operators are sufficiently audited. The Department informed us that it is satisfied with the level of auditing and audit documentation in connection with cage systems.</p>

Entity	Description
<p>Part 2.21 Department of Health and Community Services Hospital-Acquired Infections</p>	<p>Recommendation Number 1</p> <p>Department officials indicated that they have developed Province-wide policies and standards for hospital-acquired infections and are monitoring compliance at the Authorities. However, we maintain that, although the Department has developed seven guidelines which are included in the Newfoundland and Labrador Disease Control Manual, there is no requirement that the Authorities report regularly on their compliance with these guidelines. Instead, the Department maintains that monitoring is accomplished through continual contact with the Authorities at various committee meetings that they all attend.</p> <p>Recommendation Number 2</p> <p>Department officials indicated that, although they are receiving regular surveillance statistics, these statistics are limited to two specific multi-drug resistant infections. Surveillance statistics on these two infections are required by Health Canada. Also, these statistics are not limited to instances where these infections were hospital-acquired. We maintain that there are many other hospital-acquired infections that the Authorities are keeping statistics on which could be included in the surveillance statistics provided to the Department. However, the Department maintains that monitoring these other hospital-acquired infections is the responsibility of the Authority. The Department maintains that its responsibility is limited to infections targeted by Health Canada.</p> <p>Recommendation Number 3</p> <p>Department officials indicated that surveillance for hospital-acquired infections is completed and a reporting system is in place, whereas we maintain that this is only true for two specific drug resistant infections. It is the Department's position that surveillance of hospital-acquired infections and review by the Infection Control Committees (ICCs) is the responsibility of the Authorities. The Department maintains that its</p>

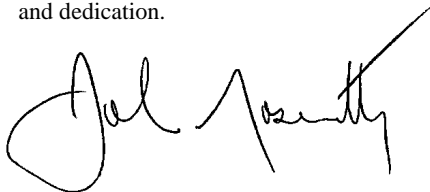
Entity	Description
	<p>presence on certain committees with the Authorities provides the opportunity for it to determine whether surveillance activities are carried out on a consistent and timely basis, reviewed and documented by the ICCs and, where appropriate, deficiencies acted upon. As a result, the Department does not require any further reporting by the Authorities.</p> <p>Recommendation Number 4</p> <p>Department officials indicated that they have reviewed this recommendation with the Authorities and are satisfied with the systems that Authorities have in place to address audits of equipment/facilities hygiene. However, we maintain that the Department has not established minimum requirements for the Authorities to carry out and report on audits of equipment/facilities hygiene because, in the Department's opinion, this is an operational requirement of the Authorities and not the responsibility of the Department.</p>
<p>Part 2.22 Labrador-Grenfell Regional Health Authority</p>	<p>Recommendation Number 3</p> <p>Officials at the Authority indicated that the compensation package given to the Associate Vice-President of Medical Services is exempt to the rule of applying Government policy because of recruitment issues in the area. However, we maintain that Government policy should be applied consistently.</p>
<p>Part 2.25 Department of Justice Adult Custody Program</p>	<p>Recommendation Number 8</p> <p>Department officials indicated that they determined that performance appraisals will not be possible for Adult Custody during the 2010-11 fiscal year and until such time as the Division is able to conduct appraisals, relevant policy will be changed to reflect that performance appraisals are not required. However, we maintain that the policy should remain in force and that the Department should ensure that a system is put in place to manage and support the process, and that all staff should have their work performance appraised on an annual basis.</p>

Entity	Description
Part 2.27 Newfoundland and Labrador Human Rights Commission	Recommendation Number 6 Officials at the Commission indicated that improving the perception of independence by submitting the Commission's annual report directly to the House of Assembly, can only be addressed by the Provincial legislature.
Part 2.28 Department of Justice Fines Receivable	Recommendation Number 1 Department officials indicated that an increase to the late penalty fee would not result in an improvement in fine collection. We maintain that the Department should consider increasing the late payment penalty. Recommendation Number 2 Department officials indicated that this recommendation has not been implemented due to the potential difficulties in implementing a system to deny, withhold, suspend or cancel various licences for non-payment of fines. We maintain that the Department should investigate attaching fine balances to all possible Government instruments to improve collection efforts. Recommendation Number 3 Department officials indicated that this recommendation has not been implemented due to the possibility of interference with other initiatives and the potential requirement for additional liability insurance. We maintain that the Department should consider enacting a Fine Option Program as outlined in the <i>Provincial Offences Act</i> to allow debtors of the Province to discharge their fines by a means other than monetary compensation.
Part 2.31 Department of Natural Resources Oil Royalties	Recommendation Number 2 Department officials indicated that they obtain this necessary information to gain audit assurance but no longer consider it necessary to request the Hibernia project operator to provide access to any Internal Audit Reports and Plans and the minutes of Hibernia Executive Committee meetings.

Entity	Description
<p>Part 2.32 Department of Natural Resources Seized Property</p>	<p>Recommendation Number 3</p> <p>Department officials indicated that it is too costly to implement this recommendation. However, we maintain that the Department should ensure that seized property is preserved and protected.</p> <p>Recommendation Number 6</p> <p>Department officials indicated that it is too costly to implement this recommendation. However, we maintain that the Department should require that someone other than the Conservation Officer making the seizure be responsible for storing the seized property.</p>

Acknowledgements

I acknowledge the cooperation and assistance my Office has received from officials of the various Government departments and agencies. I also thank my staff for their continued hard work, professionalism and dedication.



JOHN L. NOSEWORTHY, CA
Auditor General